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Thu, 19 Oct, 2017

India eyes military expansion; Sitharaman to spend Diwali with soldiers in Andaman tri-service command

The Navy is also in the process of constructing three forward operating bases (FOBs) in the islands to allow its Khukri class corvettes to be distributed across various locations in the archipelago.

By Sushant Singh

As Defence Minister Nirmala Sitharaman spends her first Diwali with the troops in the country's only tri-service command at Andaman and Nicobar Islands, New Delhi is working on expanding the military effectiveness of its outpost at the juncture of Bay of Bengal and Andaman Sea. This includes creation of military infrastructure for greater naval presence in the islands which dominates the strategically important Malacca Strait.

“Keeping in mind the Act East policy, and envisaging the future scenario in the Indian Ocean region and South-East Asia, the focus is on developing the strategically located islands in Andaman and Nicobar. Appointing retired Navy chief Admiral D K Joshi as the Lt Governor is part of that plan,” sources told The Indian Express.

Although officials are unwilling to state openly, the military focus is on countering the increasing Chinese presence in the region, which has been a cause of concern. Chinese submarines have been sighted in the area and have also been docked at bases in Pakistan and Sri Lanka. The southernmost island is only 150 km from Sumatra in Indonesia. The airstrip at INAS Baaz, the naval aviation base on Campbell Bay on the Great Nicobar island, is currently being extended from 3,050 feet to 10,000 feet. The extension, which will allow the Navy to place its modern P-8I surveillance aircraft at INAS Baaz, is scheduled to be completed by 2021. The Navy currently operates its eight P-8I aircraft, procured from the US in 2013, from INS Rajali base at Arakonam in Tamil Nadu.

“If the P-8I aircraft shift to Campbell Bay, our surveillance reach will get multiplied by thousand miles. Baaz gives us that flexibility — it increases our surveillance bubble, which will cover South China Sea. Moreover, Baaz is adjacent to Malacca straits, an area of immense strategic interest to us,” sources said.

The Navy also plans to commission its second Floating Dry Dock Navy (FDDN) — constructed by L&T — near Port Blair by December, along with a dockyard under completion. This will allow more naval ships to be maintained and serviced in the islands. The Navy is also in the process of constructing three forward operating bases (FOBs) in the islands — at Diglipur, Kamorta and at Campbell Bay — to allow its Khukri class corvettes to be distributed across various locations in the archipelago.

The creation of military infrastructure at Andaman and Nicobar Islands requires coordination with civilian administration of the islands. Earlier this month, former Navy chief, Admiral D K Joshi (retd), was sworn in as the Lt Governor of the UT. He had earlier served as the Commander of Andaman and Nicobar Command (ANC).



Thu, 19 Oct, 2017

IAF to hold landing exercise on e-way

Going ahead with its plan to use highways as landing strips during emergencies, the Indian Air Force (IAF) will conduct an exercise next week where a number of aircraft will land on the Lucknow-Agra Expressway, officials said on Wednesday. According to Defence Ministry officials, the operational exercise

will be carried out on October 24, and a number of fighter and transport aircraft of the IAF will land and take off from the highway.

The event is being organised by the IAF, together with the Uttar Pradesh Government.

The aircraft that will join the exercise include An-32 transport aircraft and leading fighter jets in the IAF inventory including Su-30, Jaguar and Mirage 2000.

On May 21, 2016, a Mirage-2000 fighter plane of the IAF had touched down on the Yamuna Expressway as a display of the IAF's capability to land fighter jets on highways.

According to officials of the Road and Transport Ministry, 12 highways have been cleared for similar landing operations, with three of those connecting Maoist-affected areas in Odisha, Jharkhand and Chhattisgarh, which also witness vagaries of nature like floods and cyclones almost every year.

These strips would be used in case of emergencies such as disaster relief, humanitarian assistance, as well as in situations of war or conflict.

The efforts that go in preparing a strip of a highway for landing of a military aircraft includes thickening the layer of tar, and at the time of operation, a make-shift air traffic control, safety services, rescue vehicles and bird clearance parties have also to be there.

In 2016, Minister of Road, Transport, Highways and Shipping Nitin Gadkari had announced the project and the formation of a committee to come up with specifications for highway stretches that can double up as airstrips.

The committee will look into details like feasibility of the stretches, and their length and breadth, among other factors.



Thu, 19 Oct, 2017

India must wake up to Xi Jinping's military reforms

By Harsh V Pant

The Indian polity's obsession with Pakistan means that it continues to ignore the changes happening in China

Every five years, the Communist Party of China (CCP) Congress has become one of the most keenly watched events with China's ascent in global inter-state hierarchy. The CCP Congress gives outsiders an opportunity to discern political trends in one of the most influential countries of the world.

Xi Jinping was formally named the CCP's "core" leader (hexin) in October, a title previously given to Mao Zedong, Deng Xiaoping, and Jiang Zemin, but not to Hu Jintao. One of the most interesting developments out of China has been Xi's attempts to shake up the PLA and to set the civil-military balance in favour of the CCP. Reform of the Central Military Commission underscores Xi's dominance in the army. No other CCP leader, including Mao, has controlled the military to the same extent that Xi does today.

Defence reforms have been a priority for Xi who wants to make the PLA a lean, mean fighting force. In order to improve the PLA's combat readiness and war-fighting capabilities, Xi's reforms are aimed at transforming China's military operations from a Russian-style, army-centric system toward a western-style joint command. Xi's military reforms will certainly make the Chinese military a more effective fighting force in the coming years. Though there remain some concerns that Chinese military prowess remains largely untested, that too is changing with the Chinese military evacuating Chinese nationals from conflict zones and its navy's presence in the international anti-piracy mission in the Gulf of Aden.

Not surprisingly, the changes will have an impact on an already lopsided India-China military balance. Indian defence reforms continue to be a work in progress and serious efforts still lag behind the requirements of the contemporary challenges and war-fighting. The three services continue to undercut one another in emphasising jointery and oneupmanship remains the norm. The political leadership remains shy of pushing through the much-needed defence reforms. While the growing material imbalance between China and India remains a problem, it pales in comparison to the structural and organisational changes that are needed to make Indian defence forces truly cutting edge. Indian polity's obsession with Pakistan means that it continues to ignore the far-reaching changes taking place in China.

Hopefully, as Xi consolidates his power even further this week, Indian policy makers and defence planners can rise from their slumber to take on a China which is getting better by the day at mobilising its hard power to achieve its foreign policy and national security objectives.



Thu, 19 Oct, 2017

US defence proposals to India can be 'potential game changers': Rex Tillerson

Washington: The US has offered a number of proposals to India in the defence sector that can be "potential game changers" for the bilateral commercial and military cooperation, secretary of state Rex Tillerson said on Wednesday.

The proposals forward by the US include sale of Guardian UAVs, aircraft carrier technologies, the future vertical-lift programme, and F-18 and F-16 fighter aircraft.

"In keeping with India's status as a 'Major Defence Partner' - a status overwhelmingly endorsed last year by the US Congress - and our mutual interest in expanding maritime cooperation, the Trump administration has offered a menu of defence options for India's consideration, including the Guardian UAV," Tillerson told a Washington audience.

"We value the role India can play in global security and stability, and are prepared to ensure they have even greater capabilities," Tillerson in his address to the Center for Strategic and International Studies, a top American think- tank, ahead of his visit to India next week.

He said the military proposals put forward by the US to India can be "potential game changers" for the commercial and defence cooperation.

Tillerson said even as the US and India grow their economic and defence cooperation, they must have an eye to include other nations which share their goals.

"India and the US should be in the business of equipping other countries to defend their sovereignty, build greater connectivity, and have a louder voice in a regional architecture that promotes their interests and develops their economies," he said.

"This is a natural complement to India's 'Act East' policy. We ought to welcome those who want to strengthen the rule of law and further prosperity and security in the region," he said.

Tillerson said that the increasing convergence of US and Indian interests and values offer the Indo-Pacific the best opportunity to defend the rule-based global system.

"But it also comes with a responsibility - for both of our countries to 'do the needful' in support of our united vision of a free, open, and thriving Indo-Pacific," he said.

The US welcomes the growing power and influence of Indian people in this region and throughout the world, he added.

"We are eager to grow our relationship even as India grows as a world leader and power. The strength of the Indo-Pacific has always been the interaction among many peoples, governments, economies, and cultures," he said.

Tillerson said the US is committed to working with any nation in South Asia or the broader region that shares its vision of an Indo-Pacific where sovereignty is upheld and a rule-based system respected.

"The fact that the Indian Navy was the first overseas user of the P-8 maritime surveillance aircraft, which it effectively fields with US Navy counterparts, speaks volumes of our shared maritime interests and need to enhance interoperability," Tillerson said.

"The US military's record for speed, technology, and transparency speaks for itself - as does our commitment to India's sovereignty and security," he said, adding that security issues that concern India, concern the US.

Defence secretary Jim Mattis has said that the world's two greatest democracies should have the two greatest militaries.

"I couldn't agree more. When we work together to address shared security concerns, we don't just protect ourselves, but others," he said.

"Earlier this year, instructors from the US and Indian Armies came together to build UN peacekeeping capacity among African partners, a program that we hope to continue expanding. This is a great example of the US and India building security capacity and promoting peace in third countries - and serving together as anchors of peace in a tumultuous world," Tillerson said.



Thu, 19 Oct, 2017

China's Prez Xi Jinping calls for modernised army 'built to fight'

Lofty Target: People's Liberation Army to be fully mechanised by 2020, revamped organisationally by 2035

Beijing: President Xi Jinping on Wednesday said China will build a powerful and modernised military and transform it into a world-class force under the Communist Party's leadership within the next two decades.

The target is to complete the mechanisation of the armed forces by 2020 and to modernise the army, navy and air force in terms of organisational structure and weaponry by 2035, Xi told more than 2,200 delegates and senior Communist Party members who had gathered at the Great Hall of the People for the inauguration of the party's 19th national congress.

On broader terms, he said China was at a key juncture in its history. "The Chinese nation... has stood up, grown rich, and become strong - and it now embraces the brilliant prospects of rejuvenation... It will be an era that sees China moving closer to centre stage and making greater contributions to mankind," said the 64-year-old Xi, who is set for a second term in office.

Xi's comments on the military were specific. "Our military must regard combat capability as the criterion to meet in all its work and focus on how to win when it is called on. We will take solid steps to ensure military preparedness for all strategic directions," he said.

Founded in 1927, the People's Liberation Army now has almost two million service personnel.

Throughout his three-and-a-half hour-long speech, Xi called on the Communist Party to urge its members not only to safeguard China's sovereignty but also to revitalise Chinese culture, oppose "erroneous" ideology and promote religion that is "Chinese in origin".

He pledged to build a “modern socialist country” for a “new era” and said that by 2050, China would become a “strong power” with leading influence on the world stage.

The official title and aim of the conclave was, for the Communist Party, characteristically longwinded: “Secure a decisive victory in building a moderately prosperous society in all respects and strive for the great success of socialism with Chinese characteristics for a new era”.



Thu, 19 Oct, 2017

Road to n-disarmament

By Joyeeta Banerjee & Rajdeep Banerjee

The United Nations has regularly observed that proliferation of nuclear, chemical and biological weapons constitutes a threat to international peace and security. Nuclear weapons are explosive devices whose energy results from the fusion or fission of the atom. Nuclear weapons create devastation of unprecedented levels.

The recent nuclear testing by North Korea has invited widespread condemnation from the world community. In resolution 2375 (2017) dated 11 September 2017 the United Nations Security Council observed that such tests challenge the Treaty on Non-Proliferation of Nuclear Weapons and international efforts aimed at strengthening the global regime of non-proliferation of nuclear weapons. It spoke of the danger it poses to peace and stability. The resolution lamented that North Korea continue to develop nuclear weapons and ballistic missiles by diverting critically needed resources away from its own people. It further observed that the ongoing nuclear related activities have destabilized the region and beyond and such developments on the Korean Peninsula could have dangerous, large-scale regional security implications.

Thus the United Nations Security Council acting under Chapter VII of the Charter and taking measures under Article 41 condemned the nuclear test conducted by North Korea on 2 September 2017 in violation and flagrant disregard of the Council’s earlier resolutions and iterated its decision that North Korea shall not conduct any further launches that use ballistic missile technology, nuclear tests, or any other provocation and also shall immediately suspend all activities related to its ballistic missile programme and re-establish its pre-existing commitments to a moratorium on all missile launches as well as abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner, and immediately cease all related activities; and shall abandon any other existing weapons of mass destruction and ballistic missile programs.

In the Nuclear Tests Case (Australia v. France) (1974, ICJ) France carried out multiple atmospheric tests of nuclear devices at its centre in French Polynesia in 1966-72 which was objected to by Australia on the ground that the French tests had caused fall-out to be deposited on Australian territory. But before the Court could pronounce the judgment France made public its intention to cease conduct of atmospheric nuclear tests following the conclusion of the 1974 series of tests.

The Court took into consideration official statements made on behalf of France concerning future nuclear testing. As declarations made by way of unilateral acts concerning legal or factual situations may have the effect of creating legal obligations when it is the intention of the State making the declaration that it should become bound according to its terms, that intention confers on the declaration the character of a legal undertaking, the State thereafter being legally required to follow a course of conduct consistent with the declaration.

France having undertaken to hold no further nuclear tests, the objective of the applicant had already been accomplished and the Court declined to give judgment. In its order dated 22 September 1995 in Request for an examination of the Situation in Accordance with paragraph 63 of the Court’s Judgment of 20 December 1974

in *The Nuclear Tests (New Zealand v. France)* case, the ICJ held that as the Court in the 1974 judgment had reached the conclusion it dealt exclusively with atmospheric nuclear tests, it was not possible to take into consideration questions relating to underground nuclear tests. Thus as the basis of the Judgment delivered in the *Nuclear Tests (New Zealand v. France)* case was not affected, the “Request for an Examination of the Situation” submitted by New Zealand was dismissed.

In the *Obligations Concerning Negotiations Relating To Cessation Of The Nuclear Arms Race And To Nuclear Disarmament (Marshall Islands v. India)* (2016, ICJ) Marshall Islands argued that India and certain other nations had violated and continued to violate international obligations under customary international law by failing to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control, in particular by engaging in a course of conduct contrary to the objective of nuclear disarmament. But the court observed that the questions of the existence of and extent of customary international law obligations in the field of nuclear disarmament were not crystallised and in the absence of a dispute the conditions for the Court’s jurisdiction were not met.

Is the threat or use of nuclear weapons in any circumstance permitted under international law? The ICJ in its 1996 Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons* observed that merely because this question has political aspects does not suffice to deprive it of its character as a “legal question” and thus can be looked into by the court. (referring to Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, ICJ, 1973). The world court referred to its earlier opinion *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* (1980) wherein it was observed that in situations in which political considerations are prominent it may be particularly necessary for an international organisation to obtain an advisory opinion from the Court as to the legal principles applicable with respect to the matter under debate.

Many nuclear states objected to the ICJ’s hearing of the matter. United States objected stating that ‘the question presented is vague and abstract, addressing complex issues which are the subject of consideration among interested States and within other bodies of the United Nations which have an express mandate to address these matters. An opinion by the Court in regard to the question presented would provide no practical assistance to the General Assembly in carrying out its functions under the Charter. Such an opinion has the potential of undermining progress already made or being made on this sensitive subject and, therefore, is contrary to the interests of the United Nations Organization.’

There are various provisions in international conventions which can be utilised for contending that nuclear testing may be against the fundamental principles of international law. Article 6 of the *International Covenant on Civil and Political Rights (ICCPR)* declares that every human being has the inherent right to life and it is protected by law. No one can be arbitrarily deprived of his/her valuable life. The court refused to accept the contention that the prohibition against genocide, contained in the *Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide*, can be utilised to declare nuclear weapons against the customary international law.

The court observed that the prohibition of genocide would be pertinent only if the recourse to nuclear weapons did indeed entail the element of intent towards a group as such and thus it would only be possible to arrive at such a conclusion after having taken due account of the circumstances specific to each case. The world court observed that nuclear weapons release not only immense quantities of heat and energy, but also tremendous radiation. The first two causes of damage are vastly more powerful than the damage caused by other conventional weapons. Also radiations render the nuclear weapon potentially catastrophic.

As the destructive power of nuclear weapons cannot be contained in either space or time, it has the potential to destroy all civilization and the entire ecosystem of the planet. Article 2, paragraph 4 of the UN Charter declares that the threat or use of force against the territorial integrity or political independence of another State or in any other manner inconsistent with the purposes of the United Nations is clearly prohibited. But this prohibition on the use of force has certain limitations like Article 42 which allows the Security Council to take military enforcement measures in conformity with Chapter VII of the UN Charter.

Also Article 51 recognizes the inherent right of individual or collective self-defence. But self-defence has certain limitations like the conditions of necessity and proportionality. This is now a rule of customary international law (In the case concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)(1986, ICJ)).

The ICJ has observed that the proportionality principle may not in itself exclude the use of nuclear weapons in selfdefence in all circumstances. As per the policy statement of the United States various factors are considered to judge whether an armed attack is imminent like the nature and immediacy of the threat, the probability of an attack, whether the anticipated attack is part of a concerted pattern of continuing armed activity, the likely scale of the attack and the injury, loss, or damage likely to result therefrom in the absence of mitigating action and the likelihood that there will be other opportunities to undertake effective action in self-defense that may be expected to cause less serious collateral injury, loss, or damage.

The Court observed that international customary and treaty law does not contain any specific prescription authorising the threat or use of nuclear weapons or any other weapon in general or in certain circumstances, in particular those of the exercise of legitimate self defence. Nor, however, is there any principle or rule of international law which would make the legality of the threat or use of nuclear weapons or of any other weapons dependent on a specific authorisation. Unfortunately there has been strong divergence of opinion among countries on the matter whether nonrecourse to nuclear weapons over the past 50 years constitutes the expression of an *opinio juris*. There is an important series of General Assembly resolutions that deal with nuclear weapons and that affirm, with consistent regularity, the illegality of nuclear weapons.

General Assembly resolutions may sometimes have normative value. After examining the General Assembly resolutions in detail, the Court declared that the use of nuclear weapons would be “a direct violation of the Charter of the United Nations’ and in certain formulations that such use “should be prohibited”. But very often several resolutions have been adopted with substantial numbers of negative votes and abstentions which clearly indicate that they still fall short of establishing the existence of an *opinio juris* on the illegality of the use of nuclear weapons.

Though the adoption of large number of resolutions requesting the member States to conclude a convention prohibiting the use of nuclear weapons in any circumstance, reveal the desire of a very large section of the international community to take, by a specific and express prohibition of the use of nuclear weapons, a significant step forward along the road to complete nuclear disarmament, yet the emergence, as *lex lata*, of a customary rule specifically prohibiting the use of nuclear weapons as such is hampered by the continuing tensions between the nascent *opinio juris* on the one hand and the still strong adherence to the practice of deterrence on the other. Thus there is in neither customary nor conventional international law any specific authorisation of the threat or use of nuclear weapons, but there is in neither customary nor conventional international law any comprehensive and universal prohibition of the threat or use of nuclear weapons as such.

The ICJ held that it could not definitively conclude “whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of a State would be at stake.” Though weapons of mass destruction are declared illegal by specific instruments, complete nuclear disarmament still eludes us. Awarding of the 2017 Nobel Peace Prize to the International Campaign to Abolish Nuclear Weapons (ICAN), a coalition of nongovernmental organizations committed to nuclear disarmament is a welcome step.

Passing of the Treaty on the Prohibition of Nuclear Weapons, the first legally binding international agreement to comprehensively prohibit nuclear weapons, in July 2017 clearly suggests that the final days of nuclear arsenals may be coming closer. The writers are Mumbai-based advocates and legal consultants.