

Indo-Pakistan Talks 2004: Nuclear Confidence Building Measures (NCBMs) and Kashmir

Ashutosh Misra

After six years, in June 2004 India and Pakistan resumed the composite dialogue process that covers eight baskets of issues agreed upon in Male in 1997 between Prime Minister Inder Kumar Gujral and Nawaz Sharif. The eight baskets are Jammu and Kashmir; Siachen; Wullar Barrage/Tulbul Navigation Project; Sir Creek; Terrorism and Drug Trafficking; Economic and Commercial Cooperation; Peace and Security; and Promotion of Friendly Exchanges in various fields. The last round of talks was held in October 1998 in Islamabad, on Peace and Security, CBMs and Jammu and Kashmir. These were followed by talks during November 5-13 in New Delhi on the remaining baskets. Until 1998, eight rounds of talks on Siachen, six rounds on Sir Creek and nine rounds on Tulbul/Wular project have occurred.

The 1998 New Delhi talks generated some optimism and prompted Prime Minister Atal Bihari Vajpayee to undertake the historic bus trip to Lahore, which culminated in the Lahore Declaration of February 21, 1999. However, the peace overtures proved short-lived as India and Pakistan were locked in a war in the Kargil region of Jammu and Kashmir after armed Pakistan intruders occupied several peaks on the Indian side across the Line of Control (LoC). In October 1999, Nawaz Sharif was overthrown and the Lahore Agreement became another signed document in the history of India-Pakistan relations.

The Islamic fundamentalists, especially the Jamaat-e-Islami (JI) criticised the Lahore Agreement. The military never recognised it until recently. India and Pakistan also witnessed a failed summit meeting between Vajpayee and Musharraf at Agra in July 2001 which showed the low level of mutual trust and confidence as a result of the Kargil war. India believes that it was an adventure of Musharraf.

A shift occurred when Vajpayee made the peace offer in Srinagar on April 18, 2003. Snapped air, rail and diplomatic links were restored as Confidence Building Measures as spadework for bilateral engagements. India made a 12-point peace

offer on October 22, 2003. It included bus services between Srinagar and Muzaffarabad and between Munabao (Rajasthan) and Kokhrapar (Sindh).

In May 2004, the National Democratic Alliance (NDA) was voted out and the Congress-led United Progressive Alliance (UPA) came to power. Notwithstanding fears in Pakistan that the peace process would be postponed due to the change of government in New Delhi, India and Pakistan held talks as scheduled. Expert level talks were held on Drug Trafficking during June 15 and 16, Nuclear Confidence Building Measures (NCBMs) during June 19 and 20. Foreign Secretary level talks were held during June 27 and 28, 2004.

Let us look at the salient features of the talks on nuclear and military CBMs and 'Jammu and Kashmir'.

Nuclear Confidence Building Measures (June 19- 20, 2004)

The June talks on nuclear confidence building measures (CBMs) dealt with measures to 'reduce risks relevant to nuclear issues'. The two sides were led by Sheel Kant Sharma, Additional Secretary (IO) and Tariq Osman Hyder, Additional Secretary (UN and EC) in the respective Foreign Offices.

Hotlines

Some old CBMs were given a facelift and some new ones agreed upon. For instance, the two sides agreed to 'upgrade', the 'dedicated' and 'secure' hotline between the Director Generals of Military Operations (DGMOs). It was also agreed that one more line between the Foreign Secretaries should be established. Thus, there would be three hotlines, 'upgraded', 'dedicated', and 'secure' for handling crises. If the two sides are still not able to establish a connection, the fault may not lie in the cables but in other exchanges in New Delhi and Islamabad.

The two sides also agreed to improve upon the agreement on the parameters on pre-notification of flight-testing of missiles with more relevant information.

1999 Lahore Agreement Re-Invigorated

In June 2004 India and Pakistan committed themselves to hold discussions and work towards implementation of the Lahore Memorandum of Understanding (MoU) of 1999. This is a significant development because the military regime in Pakistan has now chosen to recognise the Lahore Declaration after 4 years. It is common knowledge that when Atal Bihari Vajpayee and Nawaz Sharif were signing the Lahore Declaration, the Pakistan military under General Musharraf was finalising

an operation for intrusion into the Kargil region of Jammu & Kashmir. The Jammate-Islami (JI) activists had also staged demonstrations in Lahore against Vajpayee's visit and criticised a rapprochement between India and Pakistan.

The Lahore Declaration was followed by a Memorandum of Understanding (MoU) signed by the two Foreign Secretaries (K. Raghunath and Shamshad Ahmed). It reiterates the determination of both the countries in implementing the Simla Agreement in letter and spirit. It encompasses the gamut of issues which are now being pursued and calls upon the two sides to undertake "bilateral consultations on security concepts and nuclear doctrines, with a view to developing measures for confidence building in the nuclear and conventional fields, aimed at avoidance of conflict". It also calls for the two sides to "provide each other with advance notification in respect of ballistic missile flight tests"; "undertake national measures to reduce the risks of accidental or unauthorized use of nuclear weapons"; "abide by the respective unilateral moratorium on further nuclear tests"; and "periodically review the implementation of existing CBMs", including links between the respective Director Generals, Military Operations.

The Simla Agreement of 1972 on its part declares that "the countries are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them." In this context, the recent talks and the reference to implementation of the Lahore MoU, advance the principles of the Simla Agreement. It is also suggestive of Pakistan's hesitant, pragmatic approach to Indo-Pak relations in the changed domestic and international scenario.

Nuclear CBMs

On the nuclear issue, the two sides have reaffirmed their 'unilateral moratorium' on conducting further nuclear tests until 'extraordinary events jeopardize their supreme interests'. Interestingly, there are no scoring points over the nuclear flashpoint hypothesis. Further, both have called for "regular working level meetings to be held among all the nuclear powers to discuss issues of common concern". It suggests a welcome understanding between India and Pakistan to take the nuclear debate from the regional to the global level.

Of late, analysts in Pakistan have been stressing the need for Pakistan to legitimise its nuclear weapons by making common cause with India and help Pakistan insulate itself from US pressures. The proposal by Indian External Affairs Minister Natwar Singh for a shared doctrine between China, India and Pakistan, has attracted attention in Pakistan. Established Pakistani columnist, Ayaz Amir in his

article, 'Republic Terrorised by Fools' (June 4, 2004) wrote: "The Pakistani establishment has yet to realize it but the old paradigms have shifted. The new enemy, the new threat to Pakistani security, comes from the US and its irresponsible policies in this part of the world, not India. Indian Foreign Minister Natwar Singh's proposal for a shared nuclear doctrine between China, India and Pakistan is radical in its import... It also gives Pakistan protection against American designs to castrate its nuke capability."

A growing understanding between India and Pakistan could be a matter of concern for the five nuclear haves. China's immediate response that India and Pakistan should not be given the nuclear power status is a pointer.

'Peace and Security', 'CBMs' and 'Jammu and Kashmir' (June 27–28, 2004)

The Foreign Secretary level talks led by the Indian Foreign Secretary, Shashank and his counterpart Riaz Khokhar (June 27 and 28) in New Delhi were part of the 'composite dialogue process'. The Joint Statement issued on June 28, reaffirmed the elements of the June 20 Joint Statement on the "need to promote a stable environment of peace and security". Although no progress could be made on the bus link between Srinagar and Muzaffarabad, India and Pakistan have agreed to take the peace process forward "in an atmosphere free from terrorism and violence."

The CBMs agreed upon at the Foreign Secretary level included immediate restoration of the strengths of their respective High Commissions from 75 to 110; reopening of the consulates in Mumbai and Karachi; and immediate release of all fishermen detained by both sides. Riaz Khokhar termed the talks as 'useful' and a 'good first step'. Natwar Singh called the talks 'positive and concrete'.

UN Charter-Simla Agreement Debate

The reference in the June 28 Joint Statement to the UN Charter and the Simla Agreement in the same sentence has invited some debate. In fact, the 1972 Simla Agreement also refers to the commitment of the two parties to the "principles and purposes of the UN Charter." The opposition parties, especially the Bharatiya Janata Party (BJP), criticised it on the ground that reference to the UN Charter and the Simla Agreement in the same sentence is contradictory and leaves scope for third party (UN) involvement in Jammu and Kashmir affairs. Such criticism and fears appear unfounded for two reasons. First, the language of the Joint Statements has been picked up from the Lahore MoU of 1999 which was a corollary to the Lahore Agreement signed between Atal Bihari Vajpayee and

Nawaz Sharif. The reference to the UN Charter and the Simla Agreement has been made in the Lahore Agreement as well as in the MoU of 1999. The argument that references to the UN and Simla in two different sentences (as in the Simla Agreement) do not contradict each other, but does when mentioned in one single sentence, does not sound very logical or convincing. Second, the resolutions passed on Jammu and Kashmir under Chapter VI of the UN Charter are non-binding. It is, therefore, understandable why the UN Secretary General Kofi Annan during his trip to South Asia in March 2001 said that Kashmir was a “bilateral issue” and India and Pakistan need to find a solution on a bilateral basis. And, the Simla Agreement provides the mechanism for the bilateral mode of engagement between India and Pakistan. Hence, the UN Charter and Simla Agreement are complementary and not contradictory to each other.

At the talks a decision was taken to discuss the bus links between Srinagar and Muzaffarabad, and Munabao and Khokrapar, along with the other six issues at a later date in July-August 2004. India has also proposed a new bus service between Sialkot (Pakistan) and Suchetgarh (Jammu & Kashmir). Initially, when India had proposed a bus service between Srinagar and Muzaffarabad, Pakistan was fairly apprehensive in accepting it. Pakistan felt that the passengers in the bus should travel with UN documents which was clearly unacceptable to India. The idea to bring the people of the two Kashmiris closer through bus services seems to have impressed Pakistan lately. The proposal is still on the table and is to be discussed in the next round of talks. A section of political parties in Pakistan, including the hardliners, have been critical of the above proposal. According to them a bus service between the two Kashmiris unless done with UN documents, would affect the ‘Kashmir cause’ and strengthen India’s ‘forced grabbing’ of Kashmir. In early July 2004, the visit of a group of Boy Scouts from PoK to Kashmir was criticised by hard liners. If people from PoK can travel abroad on Pakistani passports, not UN papers, there should be no difficulty in visiting Kashmir.

Several other proposals were also made by the two sides. These have been slotted for discussion in the next round of talks in July-August. India has proposed that Kashmiris be allowed to visit religious shrines in PoK and build contacts by allowing families from the two Kashmiris to meet on a regular basis. The two Kashmiris could cooperate on forestry management and setting up points along the LoC for trade. These and similar proposals have good potential to improve Indo-Pak bilateral relations. However, the fact that mere fencing along the LoC is perceived by Pakistan as legitimising the LoC, has caused serious concern in Islamabad.