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Issue Brief

Issues in India-Sri Lanka Ties

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S*ummary*

The killing of Indian fishermen by the Sri Lankan Navy in January 2021, the cancellation of the tripartite Memorandum of Understanding (MoU) between Sri Lanka, India, and Japan for the development of the East Container Terminal (ECT) at the Colombo Port in February 2021 and permitting a Chinese company to set up a hybrid energy project close to India in January have contributed to raising the angst in India-Sri Lanka bilateral ties. Colombo, meanwhile, is desirous of India's support at the on-going 46th Session of the United Nations Human Rights Commission (UNHRC), which will shortly vote on a resolution pertaining to the human rights situation in Sri Lanka. India's stand at the UNHRC should be based on its long-term interests in the teardrop island.

The killing of Indian fishermen by the Sri Lankan Navy in January 2021, the cancellation of the tripartite Memorandum of Understanding (MoU) between Sri Lanka, India, and Japan for the development of the East Container Terminal (ECT) at the Colombo Port in February 2021 and permitting a Chinese company to set up a hybrid energy project close to India in January have contributed to raising the angst in India-Sri Lanka bilateral ties.

Even as it has cancelled the ECT tri-partite MoU, Sri Lanka has taken steps to permit an Indian company to develop Colombo's West Container Terminal (WCT). The speech by the Prime Minister of Pakistan, Imran Khan, to the Sri Lankan Parliament during his maiden visit to Sri Lanka in February 2021, was also cancelled.

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Irritants in Ties

The Death of Indian Fishermen

Four Indian fishermen died due to collision between an Indian vessel and a Sri Lankan naval craft on January 18, 2021.¹ India issued a strong demarche expressing deep anguish at the loss of lives.² Since 1994, both countries agreed to adopt a humanitarian approach on the issue of fishermen, and to refrain from taking kinetic actions against fishermen illegally entering into each other's territorial waters.

The unfortunate incident took place within a month of the Joint Commission meeting in December 2020 and the visit of External Affairs Minister S. Jaishankar to Sri Lanka in the first week of January 2021. On both occasions, the two sides agreed to deal with the fishermen issue amicably.³

In the India-Sri Lanka Joint Working Group (JWG) on Fisheries virtual meeting on 30 December 2021, India highlighted its commitment to work constructively with the Sri Lankan side to address all issues related to fishermen and their livelihoods from a humanitarian perspective and in line with past understandings.⁴ In that context,

¹ "Update to the news release on 'Navy in search and rescue operation to locate fishermen on sunken Indian poaching vessel in Sri Lankan waters' on 21st January 2021", *Sri Lankan Navy*, January 23, 2021.

² "Press Statement on incident involving loss of lives of Indian fishermen", *Ministry of External Affairs*, January 21, 2021.

³ "Opening Remarks by External Affairs Minister at the Joint Press Conference with Foreign Minister of Sri Lanka", *Ministry of External Affairs*, January 6, 2021.

⁴ "4th Meeting of the India-Sri Lanka Joint Working Group on Fisheries", *Press Information Bureau*, December 30, 2020.

the Sri Lankan Navy's action on the Indian fishermen boat on January 18, 2021 was unwarranted. Tamil Nadu fishermen also launched a protest demonstration condemning the incident.⁵

Ahead of the incident, the Rameswaram fishermen community was outraged with the decision of the Sri Lankan authority to auction more than 100 Indian trawlers in its custody. Reportedly, the Rameswaram fishermen took a collective decision to launch a 'protest with black flags' in mid-sea towards the Katchatheevu islet on January 23, 2021, to condemn the decision and denial of "traditional fishing rights".⁶ Therefore, Sri Lankan Navy's intention behind the January 18 action was probably to discourage Indian fishermen from launching the protest on January 23.

The loss of life of Indian fishermen complicates the process of strengthening bilateral ties. It should be noted that assembly elections in Tamil Nadu are due in May 2021. The fishermen issue is an emotional issue and political parties in the state are likely to highlight this particular issue during the election campaign.

Cancellation of the ECT Project at the Colombo Port

Sri Lanka, Japan, and India signed an agreement to jointly develop the ECT at the Colombo Port in May 2019.⁷ The ECT is located around three kms from the China-funded international financial city, popularly known as 'Colombo Port City'. As per the agreement, the Sri Lanka Ports Authority (SLPA) was to retain 100 per cent ownership of the ECT, while the Terminal Operations Company, responsible for conducting its operations, would have been jointly owned by India, Sri Lanka, and Japan.⁸

The agreement was signed in May 2019 after negotiations for almost a year, given then President Maithripala Sirisena's objections to Indian involvement in the project. The opposition parties in Sri Lanka (which included the Rajapaksas) were unhappy with the then National Unity Government (NUG) for signing the agreement without discussing it in Parliament.

During the 2019 presidential elections, although Gotabaya Rajapaksa did not specifically mention the possibility of canceling the tripartite agreement in his election manifesto, the document did affirm that "vital national assets would not be sold to foreigners".⁹ The manifesto also termed the Colombo Port as a national asset.

⁵ "India lodges protest after fishermen die in crash with Sri Lankan naval craft", *Hindustan Times*, January 21, 2021.

⁶ S. Rubatheesan, "Indian fisher groups to launch anti-Lankan protest near Katchatheevu", *Sunday Times*, January 17, 2021.

⁷ Meera Srinivasan, "Sri Lanka, Japan, India sign deal to develop East Container Terminal at Colombo Port", *The Hindu*, May 28, 2019.

⁸ "Govt. defends ECT agreement with India, Japan", *Daily FT*, June 8, 2019.

⁹ "Gotabaya Presents to you a Reconstructed Country with a Future Vistas of Prosperity and Splendour", *Election Manifesto of Gotabaya Rajapaksa*. 2019.

There were indications therefore that the tripartite agreement could be reviewed if the Rajapaksa-led Sri Lanka Padajana Peramuna Party (SLPP) won the August 2020 parliamentary elections.

After the parliamentary elections, the nationalist trade unions backed by the Left parties intensified their opposition against foreign involvement in the ECT project. Their main opposition was against participation by Indian companies like the Adani group. Media reports also suggested covert Chinese hand in instigating the protest against India's involvement in the project.¹⁰ Finally, on February 1, 2021, the Sri Lankan Cabinet decided to pull out of the Tripartite Agreement.¹¹

India was disappointed with the decision as over 70 per cent of the transshipment business in the terminal is linked to India. Moreover, it is also of geostrategic interest for India, as the terminal is located in proximity to Colombo Port City, being developed by the Chinese. Both India and Japan officially expressed their disappointment with the decision.¹²

Sri Lanka, meanwhile, has offered the project of developing the WCT to India and Japan as a compensation for cancelling the ECT deal. The Cabinet, on the same day it took the decision to pull out of the tripartite ECT deal, approved a proposal to develop the WCT as a Public-Private Limited Company in collaboration with the SLPA and Parties nominated by Indian and Japanese Governments. The decision is in line with Gotabaya Rajapaksa's manifesto, which had stated that the WCT would be developed with the involvement of private partners.¹³

Later on March 1, the Cabinet approved the proposal by the Ports and Shipping Minister to develop the WCT on a Build, Operate and Transfer basis for 35 years as a public-private partnership with Adani Ports and Special Economic Zone Limited (APSEZ Consortium) and its local representative John Keels Holding PLC (APSEZ Consortium) and the Sri Lanka Ports Authority.¹⁴ India has clarified that Sri Lankan authorities are directly dealing with the Adanis on the project.¹⁵

¹⁰ "Chinese hand seen behind blocking India's bid to develop ECT at Colombo port", *The Hindu BusinessLine*, February 5, 2021.

¹¹ "Cabinet Decision on 01.02.2021", *News.lk, The Government Official News Portal*, February 2, 2021.

¹² Meera Srinivasan, "Indian envoy meets Gotabaya, Mahinda as ECT deal falls through", *The Hindu*, February 2, 2021.

¹³ "Gotabaya Presents to you a Reconstructed Country with a Future Vistas of Prosperity and Splendour".

¹⁴ "Cabinet Decisions-01-03-2021", *Department of Government Information*, March 1, 2021.

¹⁵ "Transcript of Virtual Weekly Media Briefing by the Official Spokesperson (February 12, 2021)", *Ministry of External Affairs*, February 13, 2021.

Jaffna Hybrid Energy Project

The MS/Sinosoar-Etechwin joint venture (JV) was awarded the contract to install a hybrid renewable energy system on Nainativu, Delft, and Analaitivu islands off the Jaffna Peninsula. The contract is implemented by the Ceylon Electricity Board and funded by the Asian Development Bank (ADB).¹⁶

Citing security concerns, India registered a protest over the selection of the Chinese company to execute the project.¹⁷ A group of Sri Lankan Tamil leaders also objected to the project, noting India's security concerns. Reportedly, India had offered a \$12 million grant to execute the same project.¹⁸

Sri Lanka's Minister of Power, Dullas Alahapperuma was cited as stating in mid-February that the government would consider India's proposal, as it was a grant rather than a loan.¹⁹ The Sri Lankan Cabinet has, however, not taken any decision to suspend the project with the Chinese JV.

UNHRC Resolution on Sri Lanka

Sri Lanka is looking for support from the international community at the on-going 46th session of the UNHRC.²⁰ The Office of the High Commissioner prepared a comprehensive report on the human rights situation in Sri Lanka, which was published on January 27, 2021 and formally presented on February 24, 2021.²¹ The report urges the UN member countries to pursue prosecutions of alleged Sri Lankan perpetrators in national courts under the principle of universal jurisdiction, and impose targeted sanctions, including travel bans and asset freezes, against alleged perpetrators.²²

The United Kingdom informed the UNHRC on February 8, 2021 that the Core Group on Sri Lanka, made up of Canada, Germany, North Macedonia, Montenegro, and Malawi, apart from the UK, intended to submit a resolution on Sri Lanka to the Council.²³ The resolution, 'Promoting reconciliation, accountability and human

¹⁶ "[Cabinet Decision on 18.01.2021](#)", *News.lk, The Government Official News Portal*, January 19, 2021.

¹⁷ S. Rubatheesan, "[India fumes as China gets northern power projects](#)", *The Sunday Times*, February 7, 2021.

¹⁸ Meera Srinivasan, "[China firm slams 'third-party' interference in Lanka project](#)", *The Hindu*, February 22, 2021.

¹⁹ Meera Srinivasan, "[Sri Lanka considering India's grant instead of China project](#)", *The Hindu*, February 16, 2021.

²⁰ "[Statement made by Hon. Dinesh Gunawardena, Minister of Foreign Relations at the 43rd Session of the Human Rights Council](#)", *Foreign Ministry, Sri Lanka*, February 27, 2020.

²¹ "[Sri Lanka on alarming path towards recurrence of grave human rights violations – UN report](#)", *United Nations Human Rights Office of the High Commissioner*, January 27, 2021.

²² "[Promotion reconciliation, accountability and human rights in Sri Lanka](#)", *Report of the Office of the High Commissioner for Human Rights*, January 27, 2021.

²³ "[UK to present a resolution on Sri Lanka at UNHRC](#)", *ColomboPage*, February 9, 2021.

rights in Sri Lanka', was tabled on February 22, 2021.²⁴ Reportedly, the Western countries, particularly those in the Scandinavian region, have insisted on a strong resolution amidst objections by the member states that back Sri Lanka, including China, Russia, Cuba, Philippines, and Pakistan.²⁵ The resolution was further revised and tabled on March 12, 2021.²⁶

Apart from its vote, India can play a crucial role in determining the voting pattern on the resolution. President Gotabaya Rajapaksa requested in writing to Prime Minister Narendra Modi seeking India's support at the UNHRC.²⁷ The two leaders again had a telephonic conversation on March 13, 2021, a day after the tabling of the second revised draft.²⁸ While Sri Lanka seems confident that India would not disappoint it, India has not yet come out with any statement as yet.²⁹

It is pertinent to note that in 2012, India had voted against Sri Lanka at the UNHRC, in the background of deteriorating relations between the two countries. Sri Lanka, under Mahinda Rajapaksa during that time, was not forthcoming on the issue of Tamil reconciliation and refused to work on the commitments made to India.³⁰ There continues to be a deep concern in India about the current Sri Lankan administration's stance on issues facing Sri Lankan Tamils. The State Minister for the Provincial Council, Sarath Weerasekera, has talked about repealing the 13th amendment, which was an outcome of the India-Sri Lanka Accord of 1987 to address the grievances of the Sri Lankan Tamils.³¹

There is also talk of taking back the Trincomalee oil tank farm from India by scrapping the 2017 agreement between India and Sri Lanka. The Rajapaksa administration also seems non-committal about the MoU on Cooperation in Economic Projects, signed between the two countries during Ranil Wickremesinghe's visit to India in 2017, except on the MoU signed for cooperation in railway sector.³²

Hence, even though Sri Lankan leaders are showing their confidence in getting India's support at the UNHRC, given the experience in 2012, there is a concern among the Sri Lankans about how India will vote at the UNHRC. That is why,

²⁴ "Draft resolution on Sri Lanka tabled in Geneva", *Daily Mirror*, February 21, 2021.

²⁵ "Final version of resolution on SL after Wednesday", *The Daily Mirror*, March 9, 2021.

²⁶ "Co-sponsors table revised draft resolution on Sri Lanka ahead of UNHRC vote", *Daily FT*, March 13, 2021.

²⁷ Kelum Bandara, "UNHRC session Prez requests Modi, other leaders in writing to support SL", *The Daily Mirror*, February 20, 2021.

²⁸ "Phone call between Prime Minister Shri Narendra Modi and H.E. Gotabaya Rajapaksa, the President of Sri Lanka", *Ministry of External Affairs*, March 13, 2021.

²⁹ Meera Sreenivasan, "India cannot abandon us: Sri Lanka", *The Hindu*, February 26, 2021.

³⁰ India provided its cooperation and assistance to the Sri Lankan Government for its war against the LTTE during the last phase of war on the condition that after defeating the militant group militarily, the latter would resolve the Tamil issues by political means.

³¹ Saman Indrajith, "PC Minister Weerasekera opposes full implementation of 13 A", *The Island*, October 9, 2020.

³² "Working visit of Prime Minister of Sri Lanka to India", *Ministry of External Affairs*, April 26, 2017.

probably in the month of February 2021, Sri Lankan authorities took some measures to try to mend fences with India.

A secretariat for Trilateral NSAs on Maritime Security Cooperation between India, Sri Lanka and the Maldives, for instance, was inaugurated on March 1, 2021, at the Sri Lanka Navy Headquarters in Colombo. Reports noted that the the pro-Chinese Sri Lankan administration was dragging its feet on India's suggestion for setting up the secretariat for quite some time but finally decided to set up the secretariat to get India's support at the UNHRC.³³

The Rajapaksa government also canceled Imran Khan's address to the Sri Lankan Parliament, ostensibly on concerns that he might raise the Kashmir issue and thereby put the Government in an uncomfortable position at a time when Sri Lanka was looking forward to India's support at the UNHRC. In the past, all the visiting Pakistani PM's, had raised the issue of Kashmir in their address to the parliament.

India's Options

As of now, it is uncertain as to how these gestures of Sri Lanka will influence India's vote at the UNHRC. After Sri Lanka urged the UNHRC members to reject the draft resolution, India's Permanent Representative, Indra Mani Pandey, affirmed that India remained "committed to the aspirations of the Tamils of Sri Lanka for equality, justice, peace, and dignity" and urged the Sri Lankan government to fully implement the 13th amendment.³⁴

The revised draft resolution has incorporated India's demand for full implementation of the 13th amendment. This may encourage India to vote in favour for the resolution, but there is also a possibility that India might decide to abstain from voting. Sri Lanka would prefer a 'proactive and constructive support from India'.³⁵

While Sri Lanka's immediate concern is to get a positive response from India at the UNHRC, India's concern is to protect its long-term interests in Sri Lanka. On several occasions in the past, Sri Lanka backed out from its commitments made to India, including non-implementation of the 13th amendment, cancellation of the Sampoor Coal power plant, refusal to sign the Comprehensive Economic Partnership Agreement (CEPA), suspension of the Kankasenthurai project, among others.

When the NUG had assumed power, both sides resumed their dialogue to resolve some pending issues, such as the Economic and Technological Agreement (ETCA),

³³ P.K. Balachandran, "Lanka Takes Three Crucial decisions to garner Indian and Muslim support in UNHRC", *NewsInAsia*, March 2, 2021.

³⁴ "High Commissioner report on Sri Lanka (Cont'd)-10th Meeting, 46th Regular Session Human Rights Council", *UN Web TV*, February 25, 2021.

³⁵ Meera Sreenivasan, "India cannot abandon us: Sri Lanka", *The Hindu*, February 26, 2021.

LNG project, Solar power project etc. But nothing concrete came out from those dialogues due to the opposition of the Sri Lankan nationalists, many of who are loyal to the Rajapaksas.³⁶ After the Rajapaksas came to power in 2019, there is no visible progress on all those pending issues. On top of that, the Rajapaksa administration is thinking of reviewing many of the bilateral agreements signed by the NUG.

In this context, it is quite uncertain whether the commitment Sri Lanka has made now on the issue of the development of the WCT will be implemented. Similarly, it may not be possible for the government to cancel the award given to the Sinosoar-Etechwin Joint Venture, which has won the contract for the hybrid energy project. The Chinese JV has asserted that “a third party” (read India) protesting against Sri Lanka’s decision on grounds of “so-called self-security” cannot be acceptable.³⁷

The viability of the development of the proposed WCT project, with an 85 per cent stake with the foreign JV companies, is doubtful. One of the major objections of the trade union protestors was the involvement of the Adani Group in the development of the ECT. Further, the Sri Lankan government has stated that the WCT is not a strategic asset, unlike the ECT. Given the history of the Sri Lankan government canceling deals even after getting cabinet approval, Indian companies must thoroughly evaluate the viability of the proposed WCT project.

Conclusion

India considers the Island nation as a “Priority One” partner in the defence sphere.³⁸ India is committed to enhance its friendship and cooperation with Sri Lanka in all spheres of bilateral relations. Nevertheless, India cannot remain a mute spectator when political, foreign policy and security developments in Sri Lanka impinge on its interests. India in the past had adopted a low-key role on certain issues of concerns, such as the political resolution of the Tamil question, during 2015-2019, to its disadvantage. Due to the geographic proximity and people-to-people connect, Sri Lanka’s political and security stability is in India’s interests. However, India must ensure that its vital interests are not compromised while trying to help Sri Lanka tide over its internal and external challenges.

³⁶ “Modi wants more talks on pledges given to India”, *The Sunday Times*, October 21, 2018.

³⁷ Meera Srinivasan, “China firm slams ‘third-party’ interference in Lanka project”, *The Hindu*, February 22, 2021.

³⁸ “Indian Air Force arrives for participating in 70TH SLAF Anniversary”, *High Commission of India, Colombo*, February 28, 2021.

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