

Standoff on Sir Creek dispute

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WITH the ongoing process of normalization of relations between India and Pakistan, the two governments have decided to hold a composite dialogue to address all disputes between the two countries. There are eight issues on the agenda to be decided. Sir Creek is one of them which has remained in the cold storage for more than a decade.

There are 17 creeks on Sindh coast. Sir Creek is the seventeenth creek. These creeks used to be the main distributaries of River Indus. Sir Creek is a 60-mile-long strip of water between the Rann of Kutch (in India) and Sindh (in Pakistan), which emerged as a disputed area in late 1960s. Since then several attempts have been made to find a solution. The reason as to why the two countries are showing sensitivity towards this marshy area is that it is believed to have considerable amount of oil and gas deposits in it.

In this connection talks started in 1969 but were terminated time and again because of the ups and downs in relations between India and Pakistan. Till now six rounds of talks have been held which ended without any result. The fifth round of talks was held in 1992 while the sixth round was held on August 5-6, 2004.

The history of the issue dates back to 1914, when an agreement was signed between the then government of Sindh and Rao Maharaj of Kutch. According to the agreement both sides agreed to a boundary line running through the middle of the creek as a border between the two

law of the sea), which came into force in November 1994, has established a commission on the limits of the continental Shelf (CLCS). Under Article 76/Annexure II of the CLCS all coastal states having continental shelves exceeding 200 nautical miles from their territorial sea baselines are entitled to submit claims to determine the outer limits of their continental shelves to this international commission.

The commission on the limits of the continental shelf (CLCS), in turn will consider the data and other material submitted by the coastal states and make recommendations in accordance with the provisions of the UNCLOS. The CLCS has issued Guidelines detailing the types and format of evidence they will consider. In this connection, the Indian claim can suffer a setback in the presence of Sir Creek issue. Because India cannot include this area in its claim of continental shelf until and unless the issue is resolved.

If Pakistan accepts the Indian proposal of pending the formalization of boundary in Sir Creek, it would mean that Pakistan will share a vast area of this creek with India. But Pakistan is not willing to allow India to use its area in this manner.

Pakistan claims that the whole creek belongs to it on the following grounds: first, according to the map accompanying the 1914 resolution the boundary shown by a green line is situated in the east of Sir Creek; second, all the 17 creeks, including Sir Creek, used to be the main distributaries of the river Indus on which Pakistan has a decisive right; third, the tail of Sir Creek is called Shah Samdo Creek, which terminates in Badin district which indicates that Pakistani

states. The final demarcation of the boundary was completed in 1925 in which the boundary was shown by a "green line", depicted on the eastern side of the creek.

In 1960s this misconception emerged as a dispute between India and Pakistan. To resolve the issue, talks started in 1969. Having terminated time and again the fifth round of talks was held in November 1992. But no solution could be found. Now, as the two countries are eager to resolve all of their bilateral disputes Sir Creek has become one of the eight main issues on the agenda.

One side of the Creek is under Pakistan's control whereas there are naval installations of India on the other side. Pakistan claims that all the seventeen creeks of Sindh coast belong to it while India maintains that almost half of the area of Sir Creek, the seventeenth one, belongs to it. According to official sources 112 Pakistani fishermen are languishing in Indian jails while the number of Indian fishermen in Pakistani prisons is 250. Some of them have been behind bars for over five years.

According to the Indian claim the "green line" shown in the map as the boundary line was simply an indicative line, and the boundary line should be defined by "mid-channel" of the creek as shown on the map of 1925. But Pakistan rejects the Indian view on the grounds that the notion of "mid-channel" is applicable only to navigable channels while this channel is not a navigable one.

India maintains that it had proposed that pending formalization of the boundary in Sir Creek, the two sides could consider the delimitation of the India-Pakistan maritime boundary from seawards, by commencing at EEZ Exclusive Economic Zone limit and proceeding landwards up to a mutually acceptable limit as per provisions under technical aspects of law of sea (TALOS). The seaward approach is based on internationally accepted principles and will benefit both countries for exploitation of resources in respective of EEZ. The issue gains importance in view of continental shelf claims to be submitted by 2004 to the UN.

Actually the UNCLOS (The United Nations convention on

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claim is correct; fourth, historically, Indus delta extends up to Khor Creek which is located in Kutch in India.

In the light of these facts "hydrologically, oceanographically and geographically, the Pakistani claim stands correct," confirms Tahir Qureshi, director coastal ecosystem, world conservation union (IUCN) based in Karachi.

Finally, Pakistan has proposed that if India does not consider the Pakistani viewpoint as genuine, it is ready to take the matter to an international tribunal. The boundary demarcated by an international tribunal would not only help both parties to reach a solution of Sir Creek issue but would also help in defining the limits of the EEZ and the continental shelf for both countries.

On August 5-6 talks between India and Pakistan were held in New Delhi. The Pakistani delegation was led by additional defence secretary Rear Admiral Ahsan Ul Haq while his Indian counterpart Ranjit Issar headed the Indian delegation. At the end of the talks both reiterated the need for an early solution of the issue.

If India accepts Pakistan's premise on "green line", it would mean a loss of about 250 miles of EEZ for India, which India does not seem ready to lose. But the fact cannot be denied that serious efforts towards peace demand some compromises. If India sincerely desires to resolve the outstanding issues this is the time to show some flexibility.