

India-China Border Agreements

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Abstract

The ongoing standoff in Ladakh, which started in May 2020, has been the most serious so far in terms of casualties since the Cho La and Nathu La clashes of 1967. The incongruity of the soldiers of two nuclear weapon armed countries, inflicting casualties on each other without use of firearms, came in for much adverse comment. The commentators and the public would have been more informed had they been clear about the confidence building agreements signed between India and China regarding management of and conduct on the Line of Actual Control (LAC). This article gives out the important details of these agreements and provides links where the interested scholar can further research the subject.

General

The current standoff between India and China at the LAC has

brought the legacies of past border transgressions and standoffs to the forefront. The issue of the disputed border, exacerbated by the un-demarcated LAC, is once again under contestation. The Sino-Indian border dispute has its roots in the past and the seed of contestation was sown right after communist China annexed Tibet. India accepted the Chinese annexation of Tibet as a *fait accompli*, despite growing fear of Chinese intrusions in the border states of Nepal, Sikkim and Bhutan. It was not until 1958 that the western sector figured in the talks on the frontiers. In the middle and western sectors, up to 1959 the extent of actual control by China and India in the main, conformed to the traditional customary line, except at individual places.¹ After the 1962 war, there was a long period of no communication between India and China. But after a thaw took place in December 1988 when the

then Prime Minister Rajiv Gandhi visited China, the two countries have entered into various confidence building and peacekeeping agreements. Most occurred after transgressions and standoffs, some of which were inadvertent due to the ambiguity on the disputed border. All these agreements aimed to prevent the situation from escalating. The much discussed practice of not using weapons at the LAC flows from such agreements.

The Aksai Chin Challenge

The Chinese activities in Aksai Chin burst into Indian consciousness only in 1959 when, making a statement in the Lok Sabha, the then Prime Minister stated, "Some reports reached us between October 1957 and February 1958 that a Chinese detachment had crossed the international frontier and visited Khurnak Fort, which is within Indian Territory. The attention of the Chinese Government was drawn to this and they were asked to desist from entering our territory. There is no physical demarcation of the frontier in these mountainous passes, although our maps are quite clear on the subject. Thereafter, at the end of July 1959, a small Indian reconnaissance police party was sent to this area. When this party was proceeding towards Khurnak Fort, it was apprehended, some miles from the border inside our territory, by a stronger Chinese detachment. This happened on 28 July".² For long, India was preoccupied with the McMahon Line on its eastern border and the deliberation on the western sector was kept under wrap until the Chinese announced the construction of a road in that area.³ History suggests that post 1959, India failed to persuade China to clarify its stand on the border issue and the confusion helped Chinese prevaricate on its claims. The current dispute, where Chinese have declined to vacate from Finger areas, Depsang and Gogra, is an attempt by the Chinese to move up to the areas of their 1960 claim line. This is a departure of the LAC agreed upon as a consequence of the 1993 agreement.

The Current Impasse

The current impasse has eroded the credibility of the heads of India and China, who during the Wuhan Summit in 2018 had outlined a strategic guideline for the armies to conduct border management. The official press release mentioned, "To this end, they issued

strategic guidance to their respective militaries to strengthen communication in order to build trust and mutual understanding and enhance predictability and effectiveness in the management of border affairs. The two leaders further directed their militaries to earnestly implement various confidence building measures agreed upon between the two sides, including the principle of mutual and equal security, and strengthen existing institutional arrangements and information sharing mechanisms to prevent incidents in border regions⁴.” It also erodes the substance of the 24 Memorandums of Understanding (MoUs) signed in 2015 for cooperation in diverse economic and cultural fields.⁵ The Galwan event and the ongoing tension in the Ladakh sector clearly suggests that the compact set by the late Indian Prime Minister Rajiv Gandhi, during his visit to China in 1988 at the invitation of Chinese Premier Li Peng, is nearly finished.⁶

The militaries of the two countries are officially in the process of disengagement. However, Indian officials claim only ‘partial disengagement’ in some spots, such as Patrolling Point 17A in Gogra-Hot Springs and Pangong Lake.⁷ The recent disputes in the Ladakh Region demonstrate that China was not trying to avoid ‘new disputes’ as claimed by her, but was waiting for the opportune moment to settle the dispute on its terms. It compelled India for a stand-off at a time when the world, including India, was reeling from the unexpected onslaught of coronavirus pandemic.

The Future Lies in the Past

The answer to big challenges lies in the previous arrangements for border disputes. The previous arrangements were partially, if not fully, successful to avoid military conflicts in the border region. The countries can formulate new modus operandi based on their previous interactions. To understand the old border management, we need to refresh our minds on the previous agreements related to the LAC, which are elucidated below:

- **Agreement on the Maintenance of Peace and Tranquility along the Line of Actual Control in the India-China Border Areas, 7 September 1993.**⁸ The 1993 Agreement is considered as the foundational agreement between India and China which brought in

long pending, mutually acceptable, terms of engagement on the border areas. It first brought in the term 'Line of Actual Control' (LAC). The Agreement clearly spells out the mode of engagement between the two armies that has been reiterated since then. The Agreement states, "The two sides are of the view that the India-China boundary question shall be resolved through peaceful and friendly consultations. Neither side shall use or threaten to use force against the other by any means. Pending an ultimate solution to the boundary question between the two countries, the two sides shall strictly respect and observe the LAC between the two sides. No activities of either side shall overstep the LAC. In case personnel of one side cross the LAC, upon being cautioned by the other side, they shall immediately pull back to their own side of the LAC. When necessary, the two sides shall jointly check and determine the segments of the LAC where they have different views as to its alignment". The Agreement also informs the two parties to keep the troops level at the minimum, to work out through consultations effective confidence building measures, meetings and friendly consultations as preferred measure in case of contingencies, and suggests two parties to take adequate measures to ensure that no air intrusions takes place across the LAC. It is required for the parties on each side of the India-China Joint Working Group on the boundary question to appoint diplomatic and military experts to formulate, through mutual consultations, implementation measures for the present Agreement.

- **Agreement between the Government of the Republic of India and the Government of the People's Republic of China on Confidence-Building Measures in the Military Field along the Line of Actual Control in the India-China Border Areas, 29 November 1996.**⁹ The Agreement evokes 'five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-

existence' to foster a long-term good-neighbourly relationship. The Agreement is divided into 12 Articles, each specifically dealing an issue. Article I specifically suggests avoidance of use of its military capability against the other side. Article II reiterates determination to seek a fair, reasonable and mutually acceptable settlement of the boundary question. Article III deals with the measures to limit their respective military forces within mutually agreed geographical zones. Article IV provides guidelines for conduct of military exercises. It demands that the two sides should avoid holding large scale military exercises involving more than one Division (approximately 15,000 troops) in close proximity of the LAC. Secondly, if either side conducts a major military exercise involving more than one Brigade Group (approximately 5,000 troops) in close proximity of the LAC in the India-China border areas, it shall give the other side prior notification. Article V deals with preventing air intrusions across the LAC in the India-China border areas and facilitating overflights and landings by military aircraft. Article VI aims to prevent dangerous military activities with hazardous impact. It states, neither side shall open fire, cause bio-degradation, use hazardous chemicals, conduct blast operations or hunt with guns or explosives within two kilometres from the LAC. Article VII promotes mechanisms to strengthen exchanges and cooperation through regular flag meetings and telecommunications. Article VIII deals with the mutual assistance in case of accidental crossing of the LAC. Article IX suggests ways to handle questions or doubts regarding the manner in which the other side is observing this Agreement; either side has the right to seek a clarification from the other side. Article X recognises that the full implementation of some of the provisions of the present Agreement will depend on the two sides arriving at a common understanding of the alignment of the LAC in the India-China border areas, the two sides agree to speed up the process of clarification and confirmation of the LAC.

Article XI and XII chalk out details and issues of ratification of the Agreement.

- **Declaration on Principles for Relations and Comprehensive Cooperation between the Republic of India and the People's Republic of China, 23 June 2003.**¹⁰ At the invitation of Premier of the State Council of the People's Republic of China H.E. Wen Jiabao, Prime Minister of the Republic of India H.E. Atal Bihari Vajpayee paid an official visit to the People's Republic of China from 22 to 27 June 2003. The two sides exchanged views on the India-China boundary question and expounded their respective positions. They reiterated their readiness to seek a fair, reasonable and mutually acceptable solution through consultations on an equal footing. The two sides agreed to each appoint a Special Representative to explore, from the political perspective of the overall bilateral relationship, the framework of a boundary settlement.
- **Protocol between the Government of the Republic of India and the Government of the People's Republic of China on Modalities for the Implementation of Confidence Building Measures in the Military Field along the Line of Actual Control in the India-China Border Areas of 11 April 2005.**¹¹ The Protocol reiterates some of the points agreed during the 1993 and 1996 Agreements. It also mandates few procedures if the border personnel of the two sides come to a face-to-face situation due to differences on the alignment of the LAC or any other reason. The border personnel are suggested to exercise self-restraint and take all necessary steps to avoid an escalation of the situation. The Protocol also suggests of holding two additional border meetings each year at Spanggur Gap in the Western Sector, Nathu La Pass in the Sikkim Sector and Bum La in the Eastern Sector respectively in celebration of the National Day or Army Day of either side. According to the Protocol, the two sides agree in principle to expand the mechanism of border meeting points to include Kibithu-Damai in the Eastern Sector and Lipulekh Pass/Qiang La in the Middle

Sector. The precise locations of these border meeting points will be decided through mutual consultations. It also encourages conduct of exchanges between the relevant Military Regions of China and Army Commands of India, strengthen exchanges between institutions of training of the two armed forces and conduct exchanges between institutions of sports and culture of the two armed forces.

- **Agreement between the Government of the Republic of India and the Government of the People's Republic of China on the Political Parameters and Guiding Principles for the Settlement of the India-China Boundary Question, 11 April 2005.**¹² The Agreement highlights desire of both sides of qualitatively upgrading the bilateral relationship at all levels, and in all areas, while addressing differences through peaceful means in a fair, reasonable and mutually acceptable manner. The Agreement has 11 Articles which aim to promote mutually inclusive arrangement for facilitation of border agreement. Article I clearly spells it out that the differences on the boundary question should not be allowed to affect the overall development of bilateral relations. It also makes argument for meaningful and mutually acceptable adjustments to their respective positions on the boundary question, so as to arrive at a package settlement to the boundary question. It further states that the boundary should be along well-defined and easily identifiable natural geographical features to be mutually agreed upon between the two sides.
- **India-China Agreement on the Establishment of a Working Mechanism for Consultation and Coordination on India-China Border Affairs, 17 January 2012.**¹³ The Agreement has eight Articles that largely deal with timely communication of information on the border situation, appropriately handling border incidents and undertaking of other cooperation activities in the India-China border areas. The major issues of the Agreement are:

- ⊕ The two sides agree to establish a Working Mechanism for Consultation and Coordination on India-China Border to deal with important border affairs related to maintaining peace and tranquility in the India-China border areas.
- ⊕ The Working Mechanism will study ways and means to conduct and strengthen exchanges and cooperation between military personnel and establishments of the two sides in the border areas.
- ⊕ The Working Mechanism will address issues and situations that may arise in the border areas that affect the maintenance of peace and tranquillity.
- ⊕ The Working Mechanism will hold consultations once or twice every year alternately in India and China. Emergency consultations, if required, may be convened after mutual agreement.
- **Agreement between the Government of the Republic of India and the Government of the People's Republic of China on Border Defence Cooperation, 23 October, 2013.**¹⁴ The Agreement was signed by the two sides in order to avoid conflicts in the border areas. The Agreement reiterates the points made under earlier agreements. It asked the either side to avoid use of its military capability against the other side and that their respective military strengths shall not be used to attack the other side. Apart from agreeing to exchange information, including information about military exercises, aircrafts, demolition operations and unmarked mines, the two sides decided to jointly combat smuggling of arms, wildlife, wildlife articles and other contrabands. It also suggested to work with the other side in combating natural disasters or infectious diseases that may affect or spread to the other side. Article III of the Agreement specifically deals with border defence cooperation. The major highlights of the Article are:

- ⊕ Flag meetings or border personnel meetings at designated places along the line of actual control in the India-China border areas.
- ⊕ Periodic meetings between officers of the relevant Military Regions of China and Army Commands of India and between departments responsible for military operations.
- ⊕ Periodic meetings of the representatives of the Ministry of Defence of the Government of India and the Ministry of National Defence of the People's Republic of China.
- ⊕ Meetings of the Working Mechanism for Consultation and Coordination on India-China Border Affairs.
- ⊕ Meetings of the India-China Annual Defence Dialogue.

Article IV of the Agreement suggests that the two sides may establish Border Personnel Meeting sites in all sectors as well as telephone contacts and telecommunication links at mutually agreed locations along the LAC. The two sides may also consider establishing a Hotline between the military headquarters of the two countries. Specific arrangements shall be decided upon through mutual consultations between the two sides. Article V highlights the need for joint actions and activities, including each side inviting the other side for joint celebrations on major national or military days or festivals, organise cultural activities, non-contact sports events and small scale tactical exercises along the LAC in the India-China border areas. In addition, the two sides may also conduct joint military training exercises, at Army level, in each other's country on a regular basis. Article VI prohibits the two sides from following or tail patrolling of the other side in areas where there is no common understanding of the LAC in the India-China border areas.

Conclusion

There are ample evidences in the past where China and India had adhered to the principles of the agreements to avoid escalating

tension in the border areas. Similarly, despite the odds in the last few decades, the two sides have reiterated the policy of peaceful coexistence. China needs to be mindful that the current tension has all the elements of escalating into full-fledged war that can adversely affect their respective economies. The Chinese must realise that the economic and geographical size of India, and its standing in the global community, makes its intimidation unlikely and not something that India can acquiesce to. On the other hand, India needs to bridge the growing power asymmetry between the two countries so that a stage should not occur in the future where such undesired acquiescence can be forced upon it. Knowledge of the past agreements can be a prelude to future engagement. Almost all these agreements had come up in the wake of serious tensions on the border. It is hoped that the events of May 2020 in Ladakh will lead to even more robust mechanisms to prevent repeat of such incidents and pave the way to an ultimate border settlement exorcising the ghosts of historical legacies and misperceptions.

Endnotes

¹ Notes, Memoranda And Letters Exchanged Between The Governments Of India And China October 1962-January 1963 White Paper No. VIII. Accessed Aug 25, 2020 from <http://www.claudearpi.net/wp-content/uploads/2016/12/WhitePaper8NEW.pdf>

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