Border Defence Cooperation Agreement
The Icebreaker in Making?

*Bijoy Das*

Men carry problems in sacks of their own life spans
But a nation lives in a Pacha’s called civilisation
Five more billion years for the Sun to go
There’s still time for men’s problems…

The long expected Agreement on Border Defence Cooperation (BDCA) was signed between the governments of India and China on 23 October 2013 in Beijing, during the visit of the Indian Prime Minister Dr Manmohan Singh to the People’s Republic of China. The draft of the agreement had been through close-door negotiations by both the governments for about a year prior to its signing. Incidentally, it was also during these negotiations that a three week long face-to-face incident occurred—in April-May 2013—at Depsang located in the Aksai Chin region which is disputed between India and China.

The BDCA thus fuelled considerable media speculation and elicited interest in many quarters, of the possibility of it being a case of coercive diplomacy on China’s part and strategic sacrifice on India’s part. The BDCA has been variously assessed as an important confidence building measure as also an agreement which would not serve any purpose to check border transgressions or resolve the congenitally disputed border between the two countries. The present perspective is an attempt to

*Bijoy Das is a Research Associate with the East Asia Centre, Institute for Defence Studies and Analyses, New Delhi.*

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show that owing to a couple of path-breaking clauses, the BDCA might prove to be a small but significant step towards building mutual trust and creating an environment to progress towards a final resolution of the boundary dispute. This, of course, would be the case if both the countries not only implement the letter of the agreement but also follow its spirit. The agreement also has clauses that upgrade continuing efforts and mechanisms, which shall act as important catalysts towards achieving that potential. This article also covers the assessments of the BDCA by the media and experts from China and India, which reveals important signals on what China might be seeking on the border issue, given the fact that a significant section of the Chinese media reflects official thinking and also how the Indian strategic community has received the BDCA.

**THE BASIC FACTS**

According to India, its border with China is approximately 4,057 km long, divided into the Eastern, Middle and Western Sectors. This border is almost entirely disputed except the Sikkim boundary and smaller segments in the Western and Middle Sectors. The total disputed area between the two countries runs to approximately 1,35,000 sq km, including the following:

1. *Eastern Sector*: The North-eastern Indian state of Arunachal Pradesh (approximately 90,000 sq km);
2. *Middle Sector*: 1820 sq km in the Indian states of Uttarakhand and Himachal Pradesh;
3. *Western Sector*: Most of Aksai Chin and portions of Leh and Ladakh which are occupied by China (approximately 38,000 sq km) and the Shaksgam Valley which is under Chinese control (approximately 5180 sq km).

In the absence of a proper border, a Line of Actual Control (LAC) is used by both sides to claim the area up to which each side has effective military control. In the Eastern Sector, the LAC roughly corresponds to the McMahon Line while in the Western Sector the two sides have failed to agree to a single LAC, and thus there are two LACs going deep into each other's claimed territory. In 1962, both countries went to war over this territorial dispute and ever since face-offs are a regular feature between patrol parties from both sides, which although non-violent raise concern of another military clash between these two major developing countries with nuclear weapons.
THE LETTER AND SPIRIT OF THE AGREEMENT

Jointly Combat Smuggling

Article II of the BDCA is a path-breaking clause that says the two sides shall implement the agreement inter alia by jointly combatting smuggling of arms, wildlife, wildlife articles and other contrabands. It is well known that the porous North-Eastern frontier of India, which borders Myanmar and China, has long been affected by wildlife poaching as well as smuggling of small arms, drugs and wildlife articles, the three top forms of contraband trade. Although the main players in this traffic are supposedly non-state actors in Myanmar and other South-East Asian countries, the involvement of producers, traders and end-users of Chinese nationality is undeniable.

The major items of arms and ammunition smuggled in this region are various rifles, pistols, sub-machine guns, normal and armour piercing rockets, mines, and hand grenades. The drugs include opium, heroin and, more importantly, synthetic drugs like methamphetamine. As regards wildlife articles data from World Wildlife Fund-India and the Wildlife Protection Society of India (WPSI) show that the commonest items smuggled out from North-Eastern India are rhino parts, deer, tiger, red sandalwood, Tokay gecko, pangolin, leopard and medicinal plants. Assam, Manipur and Mizoram have come out as the hotspots in wildlife trade in India’s North-East along with West Bengal in the east. Besides, North-East India has also been home to various militant insurgent groups for several decades. The windfall profits from smuggling of contraband items like drugs and wildlife articles act as critical finance for the insurgent groups besides the supply of arms and ammunition. Incidentally, it is déjà vu on the Myanmar side of the border too. It has been shown in great detail that smuggling of all these contraband items are facilitated by elements in Yunnan, China and in other South-east Asian countries like Thailand, Cambodia and Vietnam. The affinity between the border insurgents of India and Myanmar with some ethnic minorities in Yunnan is acknowledged within China too. These elements, along with their partners in crime in India, Bangladesh, Myanmar and Nepal, operate in an organized mode to the detriment of the governments, people, flora and fauna of the countries in the region. It has been also reported that much of the arms and ammunition smuggled into North-East India originate in China and some other South-East Asian countries. Similarly, much of the wildlife articles smuggled out of North-East India are utilised to manufacture traditional medicines of China and South-East Asia besides having primitive decorative value.
Needless to say, if India and China jointly combat such contraband trade, it shall have an extremely salutary effect on regional peace, development and nature conservation. However, as pointed out by a senior officer of the Indian Army, the BDCA being an agreement between the two defence forces has come at a time when neither force is trained to combat smuggling. Hence, both the sides would have to build up capacities in the form of further training or raising a specialised force besides roping in agencies like Customs to wage an effective battle against the menace. At the same time, Chinese authorities would have to sincerely neutralize all regionally destabilizing affinities between certain sections of Chinese population and the insurgents of North-East India: it has to ensure that insurgent groups don’t become the end users of arms manufactured in China. This would ensure that violence is reduced so that political resolution of these insurgencies gets expedited. These steps would also go a long way in building up political trust and opening more avenues of military cooperation between India and China. Without these basic steps, mega schemes like the Bangladesh-China-India-Myanmar (BCIM) Economic Corridor, howsoever promising, would remain practically impossible.

No Tailing of Patrols

Article VI of the BDCA says: ‘The two sides agree that they shall not follow or tail patrols of the other side in areas where there is no common understanding of the line of actual control in the India-China border areas.’ In this author’s opinion, this is a path breaking ‘strategic investment at a tactical sacrifice’.

Tactically, it is the entitlement of any armed force to tail or follow the patrol party of another country within an area which the former claims to be its own. It is necessary for an armed force to ‘tail’ the transgressing patrol party of another country in order to ensure that the transgressing patrol returns to its own territory, ascertain which route and facilities the latter had used, and such other antecedents. The reason why both the countries have decided to give up this option needs to be understood strategically.

India and China have entered into a relationship of strategic cooperation and partnership in 2005. Leaders of both India and China have stated that both the countries have the wisdom, will and capability to resolve all their differences, including the vexing boundary issue. The two countries have entered into agreements in 2005 and 1996 after the
landmark 1993 Agreement on the Maintenance of Peace and Tranquility along the Line of Actual Control in the India-China Border Areas. These agreements reflect the political will on both sides to resolve the territorial dispute through peaceful diplomatic and political means and not by use or threat of military force. Leaderships in the two countries also understand that India–China relations go beyond the bilateral arena and have substantial implications for regional and international peace, harmony and cooperation, and a new world order.10

Besides, leaders in both the countries agree that it is their national and regional development which is the foremost task before them.11 Border disputes should not play hindrance in that process or else it might amount to be a lost opportunity for either country. This has been a common approach ever since the path-breaking 1988 meeting of Rajiv Gandhi, then Prime Minister of India and Deng Xiaoping, then senior-most leader of China. Thus, the current Indian Prime Minister Dr Manmohan Singh has taken a leaf out of that approach and has suggested to the Chinese Premier Li Keqiang that both the sides should ‘do things that enhance mutual trust’.12 From China’s angle this indeed appears to be the new agenda: to put in order its regional relations through an invigorated neighbourhood foreign policy—an objective for which territorial disputes should be fully resolved.

Against such a background, the nature of tailing of patrols needs to be put into perspective especially after the April–May 2013 Depsang incident. Operationally speaking, ‘tailing’ would occur only after a face-to-face situation between patrol parties of the two countries in a disputed territory. Reports of face-to-face patrols or tailing are yet to come by in areas where there are no territorial disputes between India and China, although such mutually agreed territories are few.

Although face-to-face situations and tailing of patrols in the India-China context are meant for peacefully staking claims on disputed territories, reject the other party’s claims, and persuade the other party to return, the possession of arms by the military combatants in a patrol party in an extremely high-altitude or inhospitable terrain does not rule out the possibility of such situations from turning violent.

Hence, having agreed that a tailing incident may further escalate the tension after a face-to-face situation, both India and China have justifiably decided to do away with tailing of patrols in the BDCA. It was possible on the basis of the earlier common understanding that peace and tranquillity on the border was an important guarantor for the growth
and development of bilateral cooperation, and that their militaries needed to enhance mutual trust and understanding. Indeed, judging from a deeper level, agreement on this ‘no tailing’ clause indicates that efforts between apex political leaderships of the two countries to promote trust have resulted in some progress and that there is some confidence that situations on borders would be resolved amicably by the forces on either side.

In fact, Article VI of the BDCA read with Article VIII reveals the common wish of India and China that no face-to-face situation should escalate into an incident involving military force. While Article VI discards ‘tailing of patrols’, Article VIII, in tune with some earlier agreements, complements it by mandating the exercise of ‘self-restraint’ in a face-to-face situation in any area where there is difference of opinion about the LAC. Article VIII goes on to instruct the militaries to ‘refrain from provocative actions’, shun use or threat of use of force, and deal with the other party ‘courteously’.

At this point it is pertinent to note that although the letter of the BDCA has effectively minimized future military confrontation by discarding tailing of patrols, it is the spirit of the agreement that can pave the way for better bilateral relations between India and China and bring a final solution to the territorial dispute.

The spirit of the BDCA demands that since ‘tailing’ would be consequent to ‘face-to-face patrolling’, neither side should patrol any disputed territory ahead of their current ground positions. If both the sides understand, agree and succeed to implement this difficult spirit of the BDCA, needless to say, possibilities of tension on the India-China border areas would be minimized. Naturally, for both sides this would mean dropping claims of territories not under their ‘actual military control’, which is what the Line of Actual Control truly means. Since conduct of militaries or other national agencies cannot be perpetually governed by the spirit of any agreement alone, both India and China would have to enter into another similar agreement as a next step. And since this pertains to territorial integrity of either country, it is suggested that the larger implication of following the spirit of the BDCA be appreciated and negotiations be initiated at an early date regarding this grey area, which is in a way a double-edged sword. On the one hand is Article IX of BDCA which stipulates that the agreement shall be implemented by the two sides ‘without prejudice to their respective positions on the alignment of the line of actual control as well as on the boundary question’. On the other
is the opportunity provided by this spirit of the agreement which has the potential of turning things around on the border issue. Hence, it is suggested that whenever such negotiations are initiated it should quickly be raised to the level of Special Representatives for India–China Border Talks where the political framework of border resolution is currently under negotiations. It is at this strategic level that broader implications of restriction on patrols can be discussed and their modalities be worked out.

**Consolidating Earlier Gains, Providing More Instruments of Cooperation**

Apart from the above two path breaking initiatives, the BDCA goes ahead in institutionalizing operational arrangements and expanding bilateral military interactions. Article III to V aims to regularise and expand interactions, exchanges, meetings and exercises between the two militaries, which are expected to be mostly between the two armies as of now. There are also provisions for cooperation on natural disasters and infectious diseases for which relevant agencies on both sides should meet and formulate standard operating procedures. These along with prospects of direct telecom links between the ground military units on either side of the LAC as well as between the military service headquarters provide adequate instruments of military to military cooperation in the interest of better bilateral relations between the two countries.

**Article I: The Odd Man Out?**

Article I of BDCA stipulates that ‘the two sides shall carry out (the agreement) on the basis of their respective laws and relevant bilateral agreements.’ The open ended nature of the article has led to quite a bit of speculation in India about which laws of China would be applicable. However, in this author’s opinion, this a provision to safeguard national interests while dealing with a range of objects which the agreement covers. To illustrate some of them from Article II of the BDCA, ‘demolition activities’ may be related to infrastructure works, ‘wildlife articles’ and ‘livestock’ may relate to sanitary and phytosanitary issues, ‘aircraft’ movement and ‘arms’ may relate to classified military information, ‘crossing the line of actual control’ may need security verification, so and so forth. On each of these Indian and Chinese laws vary or both the countries would have technical agreements and/or security considerations to weigh. In such a scenario it is standard practice in legal agreements to uphold the prevalence of domestic laws and relevant technical agreements in case
of a conflict of provisions or practices. This was actually demonstrated
in the recent case of detention of Indian porters by PLA authorities near
Chumar. The incident proved to be a first test for the BDCA and after
the release of the Indians the Indian authorities stated that the BDCA
had helped to resolve the situation amicably. Hence, the opinion here
is that Article I should not pose as a hindrance for the execution of the
BDCA.

**Chinese Assessments of BDCA**

The mainstream Chinese media and their columnists have reacted
totally positively to the BDCA. The Party’s policy journal Qiushi carried
an op-ed article from the PLA Daily which saw the agreement from the
angle of China trying to work ahead with its neighbourhood diplomacy.
It inferred that the BDCA is a legal method to establish certain good
practices and experiences for managing and controlling the disputed
border, which, consequently, would also help in maintaining stability in
the border region. In a separate article, it also quoted the PLA spokesperson
commenting positively in a media briefing about the various articles of
BDCA which are expected to prevent use of force, maintain border peace
and tranquillity, and generate trust between the two militaries near the
LAC in particular and institutionally between the two militaries too.

The widely read Huanqiu (@ Global Times) Network thinks the
BDCA was the most important of the nine bilateral documents signed
during the visit and has attracted the highest attention within China.
It quoted Huang Xilian, Counsellor at the Asia Division of the Chinese
Foreign Ministry saying that BDCA would act as a ‘guarantor’. Another
article carried both by Global Times and the respected Guangming Daily
emphasized that with the signing of the BDCA both sides undertake not
to aim their respective military force against the other.

Another important commentary by columnist Zhang Huaidong in
the Hong Kong-based, well-read daily Takung Pao says that BDCA is
a ‘strong pill for a festering problem’ and one which would also play a
positive role in bringing about a boundary settlement between China and
Bhutan. It reminded the readers that Bhutan and India are the only two
of China’s ‘fourteen’ land neighbours with whom boundaries are yet
to be finalised. The commentary says that BDCA is a signal that all of
China’s land border problems are in the process of settlement. This has
been possible because of a stand taken by China’s new leadership and
prompt follow-up actions to solve border problems thoroughly, be it with
India or with other maritime neighbours in South China Sea, it says. Being a stakeholder in increasing number of global issues, China would first have to demonstrate that it can effectively resolve its own issues with neighbours; hence the importance of BDCA. Resolution of the remaining border issues appear to be one of the most important legacies that Xi Jinping wants to leave behind in the history of China, the commentary says.20

Another article in *Global Times* and *Guangming Daily* commented that the BDCA is being seen as a ‘milestone’ development for Sino-Indian relations and the ‘foundation of the bilateral strategy’. It quoted noted Chinese scholar Zhao Gancheng saying that Dr Manmohan Singh’s visit was ‘sumptuous’, which proved that Sino-Indian relations are not ‘as terrible as some people analyse’ and has indeed improved comprehensively. Leaders on both sides need to be patient with this ‘fragile partnership’ while tending to their individual growths, said Zhao.21

**INDIAN ASSESSMENT OF THE BDCA**

The India assessment of the BDCA was, on the contrary, noticeably mixed. Mainstream news media editorials hailed the agreement as ‘constructive’22 or ‘a major success’.23 At the same time, commentators have criticised the agreement as ‘surrender in Beijing’24 and ‘a pernicious fraud on India’.25 Hence in India, the jury is still out on the BDCA.

**NEXT STEPS FOR STRATEGIC COOPERATIVE PARTNERSHIP**

The rational approach to assess the BDCA, therefore, would be in its process of execution over a period of a few years. If the agreement succeeds in that test then it would be safe to invoke the next steps to consolidate on its achievements and take additional measures towards resolution of the border dispute. Both India and China should, at an appropriate time soon, enter into an agreement to discard unilateral patrolling in areas where there are differing perceptions of the LAC anywhere ahead of their current ground positions. Implementation of such an agreement should be regularly monitored by both sides independently by technical means, and jointly by joint ground patrols.

Consequently, joint patrols should also carry out the next vital task of carrying out a detailed study of the disputed territory between the current ground positions of the two militaries. At the conclusion of the study, the joint patrols should provide their report and recommendations to the
respective militaries and governments to carry out the next steps of border resolution, namely, exchange of maps and delineation.

However, this is suggested as an alternative tactical aid to the already agreed path of boundary resolution, that is, political parameters → framework → delineation → joint boundary commission → demarcation, and is in no way a different route. If joint patrols are accepted politically then their reports can provide as important feedback for the formulation of a framework of the boundary resolution which can, in a way, kick-start the process as desired by the current leaderships of both countries.26

Another area of immense potential of cooperation is terrorism. India is a severe casualty of terrorism of various forms. China too is emerging as a casualty though with a much lower level of collateral damage, when compared with India. A common thread for both countries is terrorism with radical Islamic leanings which finds safe havens in a number of locations in South Asia and beyond. China needs to fully comprehend the damage potential of the scourge of religious extremism emanating from Pakistan. A thorough introspection needs to be conducted within China whether the intimate military links and aid to Pakistan’s military and intelligence agencies have gone on to feed and embolden elements who have a role in terrorist incidents, such as the recent ones in Tiananmen Square, Beijing and Taiyuan in China proper, as also in the larger South Asian region. China might do well to study the 9/11 incident to avert crises of such nature. Similarly China, with its strong influence over Pakistan’s leadership and military can exercise useful leverage in controlling the scourge of religious extremism. In fact, India, with its long experience in dealing with terrorism across the entire spectrum, can offer useful knowledge and experience for China. In the same manner, India and China can help stabilize the terrorism-infested frontier between India, Myanmar and China so that social and economic development can be started in this vital area which offers immense opportunities of linkages between India, China and South-East Asia. Hence, if India and China agree to cooperate on fighting terrorism and emulate the success in anti-piracy missions in the Arabian Sea, it shall turn a new chapter of peace, stability and growth for the history of this part of the continent.

India’s Three Concerns

China needs to adequately appreciate and address three concerns of India in this process. Firstly, a boundary resolution of this nature would mean that the territory through which the Chinese national highway G219
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runs, linking South Xinjiang with the Tibetan plateau, would remain under Chinese administration. China would have to assure that this route would not be used for a military build-up against India. A test case which comes to mind is whether some protocol was observed by the PLA and Chinese authorities with India while conducting the division level high-altitude military exercises near Aksai Chin during March–October 2013. Obviously, such an assurance can come only when the prevailing security dilemma ceases to exist between the two countries and there is a total rapprochement between the two. This would require a change in the existing regional geopolitics between the China–Pakistan–India triad based on a considerable change in the prevailing perceptions and mind-sets. China needs to appreciate India’s balanced stand on the US Rebalancing Strategy towards Asia and reciprocate in kind.

Secondly, China would have to convince India of the nature of China’s ‘benign’ relations with Pakistan and that China’s military and nuclear aid to Pakistan, in particular, are not inimical to India’s interests. As it is, both the state sponsored and non-state terrorism emanating from Pakistan has harmed India for decades, and has also caused regional and global instability. China, too, has not been untouched by this scourge and a former foreign minister of Pakistan has put it on record that extremists of Xinjiang get refuge in Pakistan. Consequently, China has also called for cooperation in combatting terrorism through as much as four articles of the Russia–India–China (RIC) Joint Communiqué issued in Delhi issued at the conclusion of the 12th Meeting of the RIC Foreign Ministers on 10 November 2013. Hence, India would need to be sure of the Sino-Pak relationship before it commits to a resolution of the India–China border on these lines.

Lastly, China’s presence in Pakistan Occupied Kashmir (PoK), which is disputed between India and Pakistan, is a sore issue for India. As has been stated clearly by India, China’s long term presence in PoK, whether military or civil would unnecessarily complicate and delay the resolution of this territorial dispute. This is a sensitive issue for India and more circumspection is expected from China.

Conclusion

The BDCA might prove to be a game changer in India-China relations only if both the countries and their agencies attain a unity of vision and purpose. Balance of power and security dilemma if continued to reign, would result the BDCA to survive on the less challenging items
of cooperation while the more potential ones like ‘no tailing’ and ‘anti-smuggling’ would wait for better vision to prevail. Vital to that process is building the mutual trust which negates the zero-sum narrative about the simultaneous rise of China and India. Also, it shall be imperative to take on board various stakeholders like the military and security agencies as it shall be necessary to educate and mould the public opinion on both sides. Patience and commitment shall be needed aplenty to traverse the journey.

NOTES
1. Pacha: an ancient Inca term denoting time and space together.
4. Ibid.
7. Interview conducted by the author on 2 November 2013; identity withheld at the interviewee’s request.
9. Li Keqiang’s address to the Federation of Indian Chambers of Commerce and Industry, New Delhi on 21 May 2013.
10. Prime Minister Dr Manmohan Singh’s statement to the media after delegation level talks with the Chinese Premier Li Keqiang on 23 October 2013 in

11. Ibid.

12. Ibid.


19. According to India, China has land borders with 13 countries.


26. The Chinese President Xi Jinping, while meeting the Indian Prime Minister Dr Manmohan Singh at the sidelines of the March 2013 Durban BRICS Summit, suggested that the process of border resolution needs to be expedited to which the Indian PM agreed. Shivshankar Menon, National Security Advisor to the Indian Prime Minister, while delivering his lecture on India-China Ties: 25 years after the Deng-Rajiv Talks, Nehru Memorial Museum, New Delhi, 21 December 2013.