



Choppy waters

India must push for ratification of UNCLOS by all major maritime powers, including the U.S.

Highlights:

1. When Prime Minister Narendra Modi took the stage to address the UNSC on a debate on maritime security — the first Indian premier to do so — he might have hoped to keep the focus of the discussion on building maritime ties and developing maritime infrastructure through regional cooperation initiatives.
2. Yet, once more the discussion veered toward major nations trading barbs on continuing strategic dissonance in this sphere. At the heart of the strident claims and counterclaims regarding allegations of abuse of maritime resources and disrespect of territorial sovereignty rights of nations were the U.S., on the one hand, and China and Russia on the other.
3. Mr Modi deserves credit for bringing to the table a five-prong plan to enhance maritime security worldwide through cooperation, including removing barriers to legitimate maritime trade, settling maritime disputes peacefully and based on international law, jointly facing natural disasters and maritime threats created by non-state actors, preserving maritime environment and resources, and encouraging responsible maritime connectivity.
4. Indeed, the acceptance at the UNSC of the legislative framework for UNCLOS, the “legal framework applicable to activities in the oceans, including countering illicit activities at sea”, is seen as an important achievement during India’s month at the helm of the Council.
5. The sustained interest of India in promoting maritime security also draws from Mr. Modi’s SAGAR vision plan aimed at strengthening economic and security connections with regional maritime nations.

Strategic barriers

1. If there are strategic barriers to creating momentum in achieving these goals, they are associated with specific regions of maritime tension including the South China Sea and the Black Sea.
2. Regarding the former, U.S. Secretary of State Antony Blinken decried the “dangerous encounters between vessels at sea and provocative actions to



advance unlawful maritime claims”, rejecting “actions that intimidate and bully other states from lawfully accessing their maritime resources”.

3. Similarly, regarding the Black Sea, the Kerch Strait, the Sea of Azov, Mr. Blinken at the UNSC debate hit out at what Washington considered “continued aggressive actions against Ukraine... which are disrupting commerce and energy access”.
4. Although India’s presidency of the Council is brief, its sustained commitment to promoting maritime security and boosting trade through sea routes will require it to be adroit in negotiating with these squabbling powers and creative in seeking resolution of the very real conflicts at the heart of their disputes.
5. While some may deride UNCLOS as lacking teeth for enforcement, ultimately it is the only comprehensive framework of laws available to maritime powers to assert their rights consistent with the rules-based international order. Through its UNSC presidency and beyond, New Delhi must faithfully advocate for ratification of UNCLOS by all major maritime powers, including the U.S.

Undermining justice

The Government must explain the unusual delay in filling up vacancies in courts, tribunals.

Delaying judicial appointments:

1. It was only a matter of time before the controversy over the Union government delaying judicial appointments hit the headlines again.
2. In recent days, the Supreme Court has voiced concern over the Government’s lackadaisical attitude towards a large number of vacancies in High Courts and tribunals.
3. Chief Justice of India N.V. Ramana confronted the Government with a list of 240 vacancies in various tribunals. He asked rather bluntly whether there was a plan to close down some tribunals.
4. Many tribunals lack presiding officers, and recommendations made by selection committees have not been acted upon. The vacancies in High Courts are at a staggering 455, as of August 1.



5. It appears that exhortations from the courts, and even a judicial order from the top court in April — fixing time-frames for the Intelligence Bureau and the Government to process names forwarded by the Collegium for making appointments to the High Courts or returning files and for accepting names reiterated by the judges' body — has not imparted a sense of urgency.
6. A two-judge Bench has noted that the Centre's delay in making appointments to the High Courts is adversely affecting the adjudication of commercial disputes.

Denial of Justice:

1. The judiciary's concern over the vacancies in the tribunals is quite justified, as the jurisdiction previously exercised by High Courts is now being exercised by the tribunals, and the failure to adjudicate or dispose of disputes in these fields would amount to a denial of justice to the parties.
2. The present regime's eagerness to undermine the independent functioning of tribunals is quite apparent. It has been repeatedly framing rules that seek to provide for greater executive control over the tenure, emoluments and conditions of service of those manning the tribunals.
3. If specialisation, domain expertise and relatively quicker adjudication are the reasons for which certain kinds of disputes are being resolved through tribunals, these purposes are lost if these bodies are rendered nearly dysfunctional through a large number of vacancies.
4. To compound the problem, the Union government has been inexplicably reluctant to create a national body for overseeing the work related to the appointment of members on tribunals as well as the appraisal of their functioning.
5. As far as higher judiciary appointments are concerned, there is little to enlighten the public on what is causing the delay.

Whether it is a dispute over the undoubtedly problematic memorandum of the procedure or the desire of the executive to subject the Collegium recommendations to its own political scrutiny is not clear. In any case, the delay is causing great harm to India's justice delivery system.