



Detention of Desh Shanti

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On August 12, 2013 Iran's Revolutionary Guard Corps (IRGC) detained¹ an Indian oil tanker M.T. Desh Shanti in the Persian Gulf and forcibly escorted it to Bandar Abbas port on the Iranian shores. This oil tanker, belonging to the Shipping Corporation of India (SCI), was carrying 140,000 tonnes of crude oil from Basrah in Iraq and was headed to Visakhapatnam in India. Iran's argument² was that its action was based purely on pollution concerns; however, India vehemently denied³ Iran's argument and claimed that at the time of detention of the ship it was sailing in international waters, and thus the question of detention did not arise. Also, in India's view Iran's action was not in accordance with the 1982 United Nations Convention on Law of the Sea (UNCLOS).⁴ Iran ultimately released the ship on September 6, 2013 after intensive diplomatic negotiations but this issue has raised serious doubts over the health of current India-Iran relations.

Iran was careful to deny any political dimensions to the detention of M.T. Desh Shanti. Its Deputy Foreign Minister for Asia-Pacific Affairs Seyed Abbas Araqchi said⁵ that the ship had been detained by Iran because it was causing widespread pollution in the Persian Gulf. He claimed that this action by Iran was in accordance with the international regulations under which Iran was obliged to stop the ship for investigation. According to him, Iran had received a warning on August 6, 2013 from the International Maritime Organization (IMO) that M.T. Desh Shanti was polluting Iranian waters and the Director General for Maritime Pollution Affairs at the Iranian Department of

the Environment, Nima Pourang reiterated that the Indian tanker had caused pollution 30 miles away from Iran's Lavan Island in the Persian Gulf producing a 10 mile long oil slick at sea.⁶

Indeed, a report⁷ was published on August 5, 2013 in the Bahrain based newspaper, *Gulf Daily News*, mentioning that Marine Emergency Mutual Aid Centre (MEMAC)⁸ had alerted all concerned including the coast guard, ports, and energy and desalination stations in the Gulf area about the pollution caused by M.T. Desh Shanti. According to the report 'massive oil spill' in the Arabian Gulf was 'deliberately caused' by the Indian ship Desh Shanti which was dumping oil near Iranian waters ignoring the official communications from concerned authorities. The report also emphasised that the slick was near the Iranian shores and Iran could fine the ship up to US\$ 1 million. Further, the ship's name had been added to the black list of the International Marine Organisation (IMO).

In a letter⁹ addressed to Steamship Insurance Management Services, the Ports and Maritime Organization of Iran had demanded US\$ 1.15 million bank guarantee as compensation for the release of the Indian tanker through its protection and indemnity (P&I) insurance coverage for the pollution it allegedly caused. This was despite the fact that the Shipping Corporation of India, the owner of Desh Shanti was 'pleading the vessel's innocence' by pointing to satellite imagery that suggested that an 'oil sheen' was already in the Persian Gulf where the spill was said to have occurred before the tanker reached that area. It was also apprehended that even if India agreed to pay such compensation, it would not be easy to make the actual payment due to the sanctions imposed on Iran. Experts in insurance and the sanctions regime agree that there is no possibility for P&I clubs to pay any fine, either to Iran or to MEMAC.¹⁰

India's Reaction

India reacted 'angrily' to the 'virtual hijacking'¹¹ of the tanker and provided proof that the ship was at least 400 nautical miles away from the alleged pollution site and was on an 'innocent passage' when IRGC intercepted it in international waters and forced the captain to move it towards Bandar Abbas. Therefore, Iran's action was in transgression of the UNCLOS.¹² The Iranian Ambassador was summoned by the Indian Foreign Office twice to lodge its protest¹³ and India demanded that the ship be released at the earliest and its crew members be treated well.¹⁴

The Directorate General of Shipping of India's Ministry of Shipping despatched a written appeal¹⁵ on August 28, 2013 to the Director General (Safety and Marine Protection Department) of Iran in which India's position was explained with due evidences. Through this appeal India also informed Iran of its failure to provide any documentary evidence which could refute India's claim that the detention of Desh Shanti by Iran was wrong.

Linking of Desh Shanti and Diyanat

While the diplomatic efforts were in full swing to resolve the Desh Shanti issue, Iran tried to link the detention of its ship, Diyanat detained by India about 18 months ago.¹⁶ Although Iran's Foreign Ministry did not officially link the two incidents in its conversation with India's Ambassador to Iran, the timing of Iran's protest raised questions on whether Iran was using the detention of Desh Shanti to resolve its own long-pending issue.

India's view on Diyanat's detention was that it was a result of an ongoing commercial dispute and had nothing to do with the detention of Desh Shanti. Although Iran had taken up the issue of Diyanat many times earlier, it was for the first time it expressed 'deep concern' over the seizure of Iran's ship, and asked for the immediate release of its crew.¹⁷

Diyanat is operated by the Islamic Republic of Iran Shipping Lines (IRISL), which has been put under sanctions from the United Nations, the US and the European Union. Consequently, there has been a payment-related dispute between the IRISL and a Singapore-based firm and the Indian port authorities had to detain the Iranian ship in early 2012 since the ship was facing a 'red-corner notice' and this detention was done under the IMO regulations.

Iranian officials also claimed that the nine crew members of Diyanat had been held for unknown and ambiguous reasons in Mundra port and had not been allowed to leave the vessel, which was causing them psychological problems. However, Indian officials dismissed this claim and stated that the Iranian crew members had been allowed to swap places with their counterparts from their country at regular intervals.¹⁸

The End of Detention

M.T. Desh Shanti was finally released on September 6, 2013 after 26 days. India did not pay any penalty,¹⁹ however, at the time of its release it had to give a Letter of Undertaking (LoU) to the Iranian Ports and Maritime Organization that India would pay if the pollution allegation was proved true by an ‘appropriate court of law.’²⁰ The SCI has consistently maintained that the ship did not cause any pollution as claimed by Iran. In turn, Iran too reiterated that the detention was purely a ‘technical matter’ and this issue should not in any way affect the bilateral ties between the two friendly countries.²¹

India has now filed an appeal²² with the Indian Ocean Memorandum of Understanding (IOMOU) to review the detention of Desh Shanti by Iran. IOMOU, with its Secretariat in Goa, is an international grouping of 16 maritime nations. Since India is also a member of this grouping, it hopes that an independent enquiry would be made by the agency. IOMOU has prima facie accepted India’s petition and would soon form a committee to look into the issue.

Reasons behind Iran’s Action

Until the findings of the IOMOU are released, it is difficult to pin point the exact cause of the detention of Desh Shanti. However, the manner in which the detention was carried out by IRGC can certainly be explained. The combination of at least three reasons may be behind the action by the IRGC which forcefully detained and escorted the Indian ship to its own waters and later on protracted its release:

- (a) First, the detention of Desh Shanti may be an indicator of the deteriorating India-Iran relations due to sanctions because of which India’s import of oil from Iran has drastically been reduced. India imported total of 185 million tons (mt) of crude oil worth US\$ 144 billion in 2012-2013²³ of which only 13.1 mt was from Iran as compared to 18.11 mt in previous year 2011-12.²⁴ India’s import of Iranian oil in 2013 is lower by 40 per cent from the previous year. Indications are that Indian imports from Iran would be only about 190,000 barrel per day (bpd) in the fiscal year 2013-2014.²⁵ Iran, which was until recently the second largest supplier of India’s total oil import, has now slipped to the sixth position and Iraq has now replaced Iran as the second largest provider of oil to India. This reason may have triggered the IRGC’s action to detain the Indian ship which was carrying oil from Iraq.

- (b) The second reason could be related to Iran's continued domestic political conflict after the election of Hassan Rouhani as the new President. Rouhani has been getting increasingly popular as a 'moderate' leader of Iran and this is not to the liking of the conservative elements in the Iranian political system, particularly the IRGC. Since IRGC is not under the control of the President of Iran, it might have taken the decision of detaining Indian ship to discredit Rouhani at a time when he needs maximum international support for the successful negotiation of Iranian nuclear standoff and to improve the sanctions stricken Iranian economy. In both cases India plays a crucial role due to its continued import of Iranian oil despite sanctions.
- (c) There could still be a third reason which could be attributed to the dissolution of the Irano Hind Shipping Company (IHSC) on April 2, 2013.²⁶ The IHSC was a shipping joint venture (JV) formed in 1975 between India's state-run Shipping Corporation of India (SCI) and Islamic Republic of Iran Shipping Lines (IRISL). The primary reason of the dissolution was that the IHSC was finding it difficult to do business because of sanctions imposed on it by the Security Council in 2010 through its resolution 1929.²⁷ The IRGC may not have liked this decision of India and since the ship belonged to Shipping Corporation of India, it decided to detain it.

Conclusion

In light of the detailed and convincing evidences provided by India against Iranian claims and Iran's inability to logically counter them, it can be argued that the detention of *Desh Shanti* was unfair. Moreover, even if Iran's claims were true that the Indian tanker did cause pollution, the manner in which the whole episode was handled by IRGC is not good for India-Iran relation. Regardless of the final outcome of the Indian appeal to IOMOU, the negative implications of *Desh Shanti* episode would continue to haunt the bilateral ties in the days to come.

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Endnotes

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² “Iran’s interception of Indian oil tanker not political: Tehran,” *Press TV*, August 16, 2013, <http://www.presstv.com/detail/2013/08/16/318994/no-political-side-to-india-ship-detention/> (Accessed September 13, 2013).

³ “Iran’s charges against MT Dosh Shanti are absurd: India,” August 17, 2013, <http://www.dnaindia.com/india/1875462/report-iran-s-charges-against-mt-dosh-shanti-are-absurd-india> (Accessed September 8, 2013).

⁴ The Directorate General of Shipping, Ministry of Shipping, India. “Appeal against the detention of M.T. Dosh Shanti to the Director General (Safety and Marine Protection Department), Iran,” Dated August 28, 2013, http://dgshipping.gov.in/WriteReadData/News/201308300225397076871appeal_doshshanti_detention_300813.pdf (Accessed September 25, 2013), p. 3.

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⁶ Ibid.

⁷ “Oil spill sparks high alert,” *Gulf Daily News*, August 5, 2013, <http://www.gulf-daily-news.com/NewsDetails.aspx?storyid=358646> (Accessed September 15, 2013). Also see “Indian Ship Accused of Oil Dumping, Gulf Countries on Alert,” *Environment News Service*, August 6, 2013, <http://ens-newswire.com/2013/08/06/indian-ship-accused-of-oil-dumping-gulf-countries-on-alert/> (Accessed September 12, 2013).

⁸ MEMAC is a regional intergovernmental organisation based in Bahrain and its member countries include six GCC countries Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates along with Iran and Iraq.

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¹⁰ Ibid.

¹¹ “Iran’s charges against MT Dosh Shanti are absurd: India,” August 17, 2013, <http://www.dnaindia.com/india/1875462/report-iran-s-charges-against-mt-dosh-shanti-are-absurd-india> (Accessed September 8, 2013).

¹² Ibid.

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¹⁶ “After seizing Indian ship, Iran wants its own back,” *The Indian Express*, August 30, 2013, <http://www.indianexpress.com/news/after-seizing-indian-ship-iran-wants-its-own-back/1162047/> (Accessed September 8, 2013).

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ “Iran releases Indian oil tanker,” *The Indian Express*, September 8 2013, <http://www.indianexpress.com/news/iran-releases-indian-oil-tanker/1166107/> (Accessed September 14, 2013).

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²⁷ United Nations Security Council. Resolution 1929, S/RES/1929 (2010) (Reissued), June 9, 2010, [http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1929\(2010\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1929(2010)) (Accessed September 10, 2013), pp. 7, 15.