



## MEI Policy Focus 2016-16

# DEFUSING TENSIONS AT SEA: U.S.-IRAN MARITIME RELATIONS IN THE PERSIAN GULF

JOHN W. MILLER



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*Despite the oft-tense relations between the United States and Iran, the two nations have been able to largely keep the peace in the Persian Gulf waters. Former Commander of the U.S. Fifth Fleet, John W. Miller, details the daily interactions between the respective navies in the narrow and busy waterway, and how such interactions potentially serve as opportunities for improved relations in the area. In the wake of the Joint Comprehensive Plan of Action, both sides now have the opportunity to build confidence in the Persian Gulf, and with the onset of the new G.C.C. Task Force 81, maritime cooperation can help to defuse tensions between the Gulf rivals. This engagement must come with the expectation, however, that Iran will become a more responsible maritime neighbor that will be held to account for any malign behavior moving forward.*

## KEY POINTS

- ◆ Daily interactions between U.S. and Iranian naval forces in the Persian Gulf are normally routine and occur without incident
- ◆ Confrontational engagements in the Persian Gulf can be attributed to either deliberate messaging by the Iranian leadership or the irresponsible actions of the Islamic Revolutionary Guard Corps Navy commanders at lower levels
- ◆ All sides in the Persian Gulf largely adhere to customary international maritime law, ensuring the orderly conduct of maritime operations
- ◆ Continued and enhanced cooperation at sea, particularly joint search and rescue operations and counter-piracy efforts, can serve to reduce tensions
- ◆ Provocative behavior from Iran cannot simply be written off; Iran has to be held accountable for malign behavior

## INTRODUCTION

The U.S. Navy, Iranian Navy (IRIN), and the Islamic Revolutionary Guard Navy (I.R.G.C.-N) have faced off in the crowded waters of the Persian Gulf and its surrounding environs for decades. Fortunately, despite tense relations between Washington and Tehran, hostilities have been rare; the most serious being Operation Praying Mantis (O.P.M.) in 1988 when the United States responded to more than a year of Iranian aggression in the Gulf with a series of devastating strikes.<sup>1</sup> Tensions remained high in the wake of O.P.M. and culminated with the tragic shoot down of Iranian Air Flight 655 in July 1988.<sup>2</sup> Since that horrific event, interactions, while often contentious, have rarely been violent.

## THE LAW OF THE SEA

The Gulf is a relatively constrained body of water, measuring approximately 615 miles long and only 34 miles wide at its narrowest point. It's also relatively shallow, considering the size of ships that routinely sail within it, with an average depth of 164 feet.<sup>3</sup> Yet on any given day, dozens of very large crude carriers and merchant ships, hundreds of cargo and fishing dhows and skiffs (dealing in legitimate or illicit trade), and nearly a hundred warships from the United States, coalition partners, the G.C.C., and the Islamic Republic of Iran ply its waters. It stands to reason that U.S. and Iranian forces interact on a regular basis, and most of those interactions are routine and occur without



Vice Admiral John W. “Fozzie” Miller, USN (Ret) is a consultant, policy advisor, and speaker based in Washington, D.C. In 2015, Miller retired from the U.S. Navy after serving as the Commander, U.S. Naval Forces Central Command, which he concurrently served

as Commander, Combined Maritime Forces and Commander, U.S. Fifth Fleet.

Miller was designated a Naval Flight Officer in 1980. He accumulated more than 3,500 flight hours and 1,000 carrier arrested landings in the F-14 Tomcat. From 1990-91, Miller was a White House Fellow as special assistant to the administrator of NASA. Prior to serving as a White House Fellow, he was assigned as the Leadership Section Head at the U.S. Naval Academy. Miller held numerous commands in the U.S. Navy including: VF-142, VF-101, USS Dubuque (LPD 8), USS Juneau (LPD 10), USS Constellation (CV 64), USS John F. Kennedy (CV 67), Carrier Strike Group 11, and the Naval Strike and Air Warfare Center. After promotion to Rear Admiral, Miller spent a considerable amount of time focusing on the Middle East, serving as Deputy Commander to U.S. Naval Forces Central Command/United States Fifth Fleet and Deputy Director, Strategy, Plans, and Policy (J5); Chief of Staff, U.S. Central Command, and Commander, U.S. Naval Forces Central Command/U.S. Fifth Fleet/Combined Maritime Forces. In 2015, Miller received the Distinguished Service Medal. He has appeared in Fox News, Defense News, *the New York Times*, as well as ABC News.

incident. Those that are not routine can be attributed to either deliberate messaging by Iranian leadership or the irresponsible actions of I.R.G.C.-N commanders at lower levels—it is difficult to determine at what level potentially escalatory actions are decided upon in Iran.

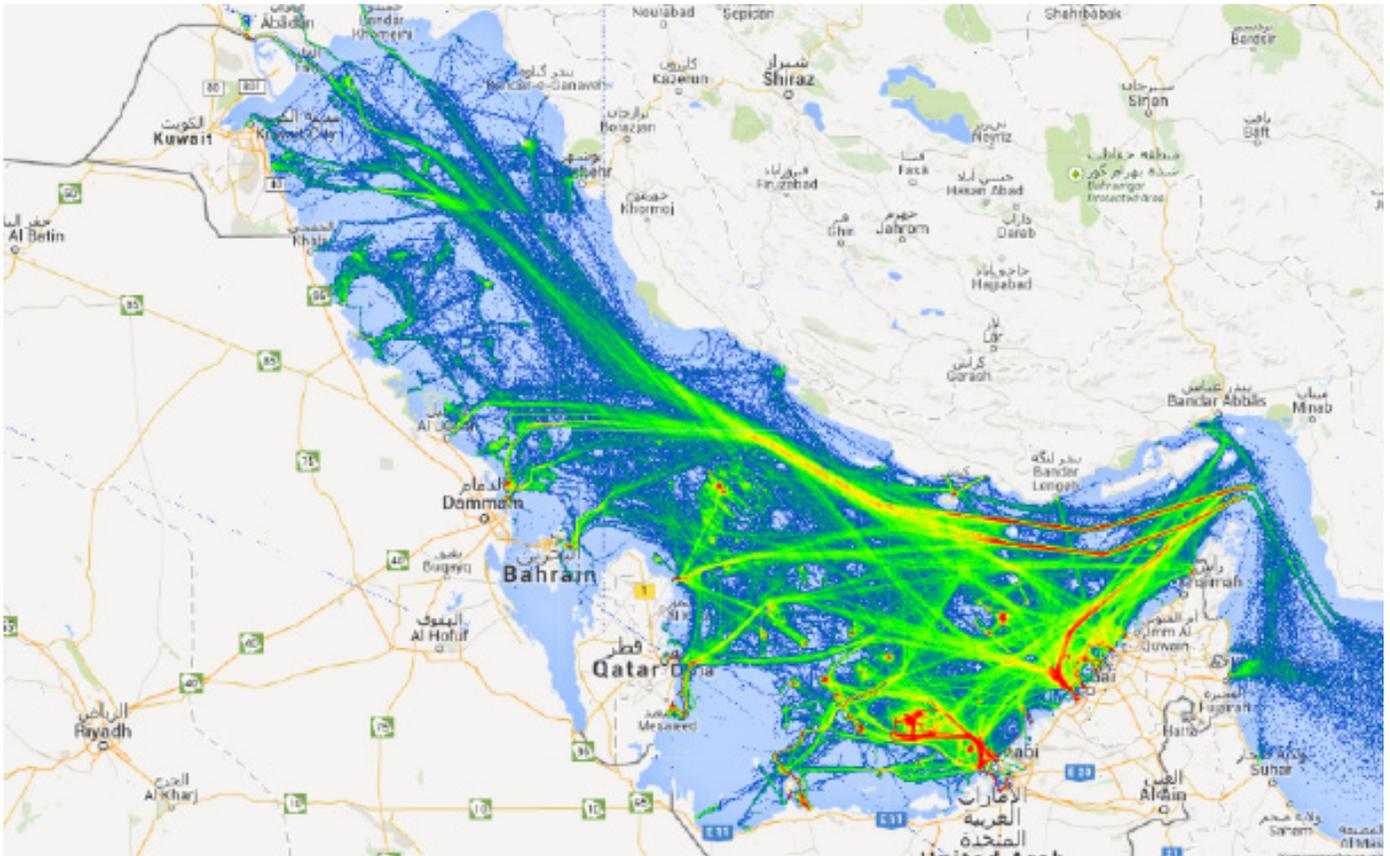
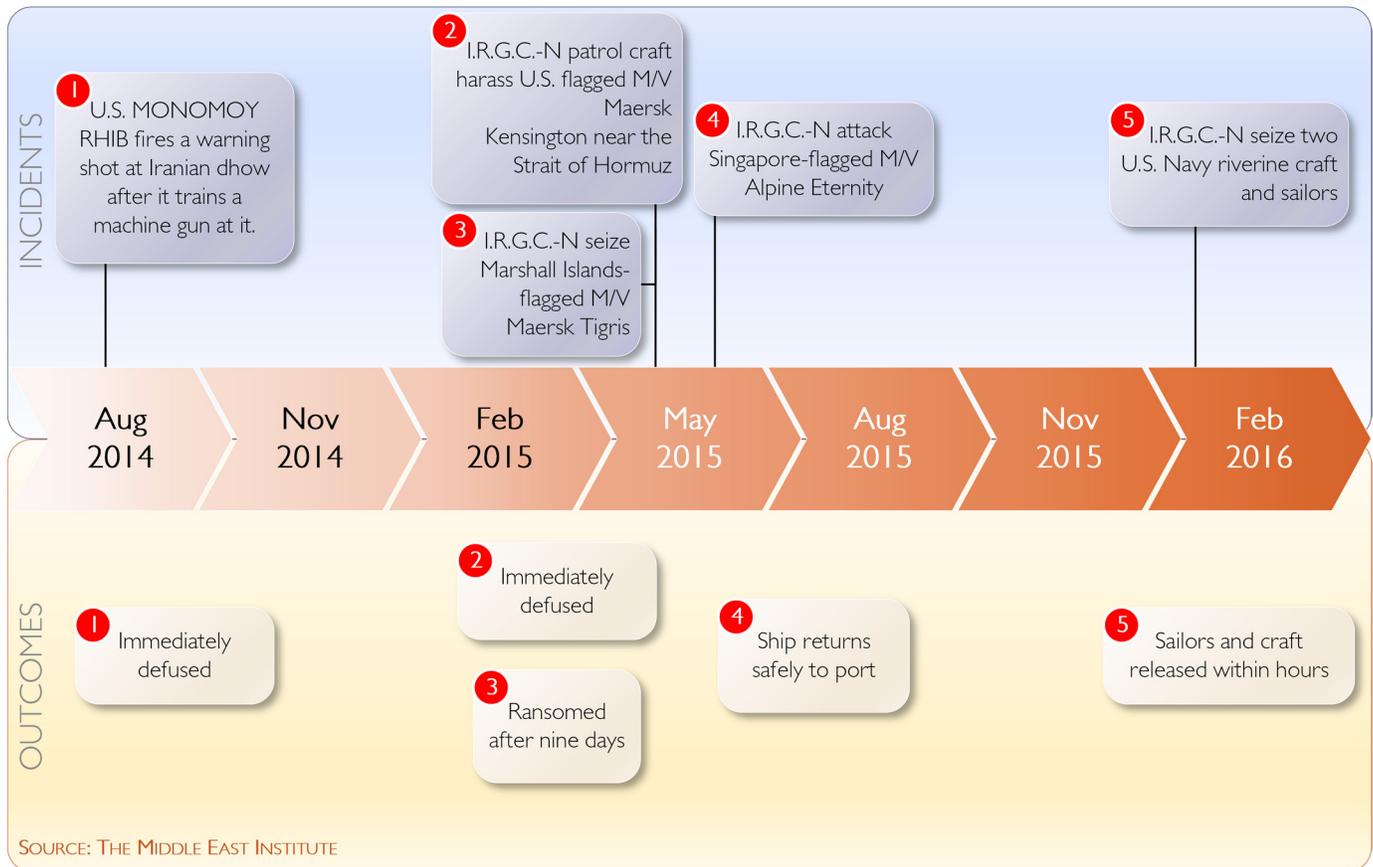


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Hundreds of years of tradition and dozens of treaties make up customary international maritime law—the set of rules by which order and safety are maintained at sea. For the purpose of this discussion, a brief review of three documents is useful. The United Nations Convention on the Law of the Sea (UNCLOS) lays down a comprehensive system of law and order for the world’s oceans and seas and establishes rules that govern the uses of the oceans and their resources.<sup>4</sup> It governs all aspects of ocean space, including delimitation, economic and commercial activities, transit and innocent passage definitions, and freedom of navigation rights.<sup>5</sup> While neither Iran nor the United States have rat-

ified UNCLOS, both nations are committed to the general provisions.<sup>6</sup> The International Regulations for Preventing Collisions at Sea (COLREGS) aid mariners in safe navigation. The “Rules of the Road” ensure all vessels operating in international waters do so under the same set of rules.<sup>7</sup> The International Convention for the Safety of Life at Sea (SOLAS) specifies minimum safety standards for the construction and operation of ships, and includes an obligation for masters to proceed to the assistance of those in distress.<sup>8</sup>

The combined adherence to UNCLOS, COLREGS and SOLAS ensure the orderly conduct of maritime operations, even in the tight confines of the Gulf and even between two potential belligerents like the United



States and Iran. U.S., coalition, and G.C.C. warships interact with ships from Iran’s regular navy (IRIN) and the Revolutionary Guard Navy (I.R.G.C.-N) on a daily basis. That these daily interactions are nearly always routine and uneventful is a testament to the soundness of the governing conventions, but reliant upon the professionalism of the sailors and the policies of their governments.

## U.S.-IRANIAN MARITIME RELATIONS DURING NUCLEAR TALKS

The negotiating process that led to the Joint Comprehensive Plan of Action (J.C.P.O.A.)

began in earnest in May 2012. It might be logical to assume that none of the parties involved in the negotiations over the protracted period wanted an adverse tactical action in the maritime to have a negative strategic effect on the very sensitive and challenging talks. But 38 months is a long time—especially in the Gulf—and with complex conflicts in Afghanistan, Syria, Iraq and Yemen, tensions ebbed and flowed during the course of the negotiations. Further, it’s not entirely clear the Iranian government had a monolithic position on the desirability of reaching a successful agreement, which may explain some of the malign I.R.G.C.-N behavior from May 2012 until the conclusion of the talks in July 2015 and beyond.

The 2014 warning shot fired by MONOMOY'S RHIB (small boat) in response to the training of a weapon from an Iranian dhow, and the seizure of the riverine craft in January 2016 both had high potential to be tactical actions with far larger strategic consequences, yet neither did. In the case of MONOMOY, no one was hurt and neither the United States nor Iran chose to make anything further out of an isolated incident where no 'face was lost' on either side.

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The timing of the seizure of the riverine craft and U.S. sailors, just days before implementation of the J.C.P.O.A., potentially put the entire agreement at risk and was an astonishing act given its blatant disregard for UNCLOS' right of innocent passage and numerous violations of international law. The event highlights the likely fissure within the Iranian regime between those who favored the agreement and those who did not, and also underscores the fact that the Obama administration was willing to overlook almost any Iranian misdeed in order to implement the J.C.P.O.A.

The three I.R.G.C.-N attacks on unarmed merchant ships in April and May 2015 are interesting as they appear to stem from the I.R.G.C.-N's embarrassment at having failed to deliver lethal aid to Houthi forces in Yemen. On April 23, 2015, Iranian ships, loaded with arms allegedly for the Houthi rebels in Yemen, were reported to have turned back toward Iran due to the enforcement of a U.N. arms embargo by U.S. and coalition maritime forces.<sup>9</sup> This incident proved to be a large public embarrassment for the I.R.G.C.

The apparent response from the I.R.G.C. was immediate. On April 24, U. S.-flagged M/V *Maersk Kensington* was intercepted in the vicinity of the Strait of Hormuz by I.R.G.C.-N patrol craft and was at one point encircled by them.<sup>10</sup> While no shots were fired, the Pentagon deemed the incident part of a pattern of harassment.<sup>11</sup>

Four days later, the I.R.G.C.-N intercepted and seized the Marshall Islands-flagged M/V *Maersk Tigris* while it was in Iranian waters in the inbound traffic separation scheme in the Strait of Hormuz. The next day, Maersk was informed by the Iranian Ports and Maritime Organization that an Iranian court had ordered it to pay \$3.6 million in compensation to an Iranian company for the loss of ten containers in Dubai that Maersk Line had shipped in 2005.<sup>12</sup> The ship was released on May 7, 2015.

On May 14, 2015, Singapore-flagged M/V *Alpine Eternity* was attacked in international waters off the U.A.E. by I.R.G.C.-N patrol craft. The vessel had collided with an under-construction Iranian oil platform on March 21, 2015 and was transiting from Bahrain to the U.A.E. for further repairs when it came under attack. No one was injured, and the ship eventually made its way safely into port.<sup>13</sup>

The U.S. Navy's response to this sudden burst of malign I.R.G.C.-N activity—apparently in response to the failed attempt to supply lethal aid to the Houthis in Yemen—was to begin accompanying U.S.-flagged vessels transiting the Strait of Hormuz.<sup>14</sup>

While this decision was made quickly by Washington standards—just six days after the seizure of *Maersk Tigris*—it is noteworthy that the I.R.G.C.-N took just one day from their decision to turn their lethal aid convoy away from Yemen to decide to begin harassing shipping, including U.S.-flagged vessels, in the Gulf.

Less than two months after these three significant I.R.G.C.-N attacks against commercial shipping in the Gulf, J.C.P.O.A. finalization day was reached. Malign I.R.G.C.-N activity as outlined above did not impact the J.C.P.O.A. negotiations.

The months between finalization day in July 2015 and implementation day in Janu-

ary 2016 required great diplomatic dexterity that would benefit from an absence of the potentially destabilizing activity seen in the months preceding finalization day. This didn't occur as the Islamic Republic seldom misses an opportunity, and the reluctance of the United States or any of the P5+1 participants to respond forcefully to Iran's malign behavior in the months immediately preceding finalization day, left the door open for Iran to set conditions for the path to implementation day and beyond.

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## SHARING THE SEA LANES: MARITIME COOPERATION IN THE GULF

CENTCOM and its maritime component, NAVCENT, conduct dozens of exercises every year in the region. In September 2012, NAVCENT hosted the first regional International Mine Countermeasure Exercise (IMCMEX), with more than 30 nations from six continents participating.<sup>15</sup> Portions of the exercise were held in the center of the Gulf, where mines might be placed to impede the orderly flow of maritime traffic; or as the Iranians choose to describe it, to “close the Strait of Hormuz.”<sup>16</sup> Iran was not

included in the list of invitees, but chose to participate anyway—somewhat—by providing adequate opposition force simulation through their curiosity about what much of the rest of the global maritime community was doing. The three subsequent IMCMEX events have been even more successful than the first, and Iranian interest in coalition exercises in the Gulf remains high.

Not surprisingly, the Islamic Republic also routinely executes a robust exercise schedule—often designed to be more focused on the propaganda messages of the regime than on improving operational performance or theater security cooperation in the region. The Iranians have few allies in the region, but they exercise often as one would expect any military force to do.<sup>17</sup>

Exercise planning in the Gulf requires a certain amount of sophistication. The planners must strive to achieve as much realism as possible without creating a scenario that any potential adversary could view as being either overly provocative or a pretense

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for an actual attack. Like PACOM, CENTCOM suffers from the tyranny of time and distance, but in the case of CENTCOM, it's often too little distance and leaves too little time for decision-making. Conducting a rocket-firing exercise in the confined wa-

ters of the Strait of Hormuz during a U.S. aircraft carrier strike group transit would be viewed as “unnecessarily provocative and unsafe,” which was the exact conclusion of U.S. officials following the December 26, 2015, I.R.G.C.-N live-fire exercise in the strait during the USS Harry S. Truman Strike Group transit.<sup>18</sup>

## IRAN POST-J.C.P.O.A.

An oft-forwarded critique of the J.C.P.O.A. is that the agreement didn't include limits on Iranian ballistic missiles. It is entirely likely that the J.C.P.O.A. would never have come to fruition if ballistic missiles were included in the negotiations, and some argue that U.N. Security Council Resolution 2231, which calls upon Iran to refrain from testing missiles capable of carrying nuclear warheads, is sufficient. Where this argument loses traction is in the lack of an enforcement mechanism in 2231.

When Iran conducted ballistic missile tests on March 9, 2016, less than two months after implementation day, the U.S., French, British, and German governments concluded that they were simultaneously “inconsistent with” and “in defiance of” resolution 2231 and called upon Spain's U.N. ambassador to coordinate an appropriate response. Since Russia maintains the tests did not violate 2231, an appropriate response from the U.N. is

likely not forthcoming.<sup>19</sup> Not surprisingly, the United States also concluded that the tests did not violate any provisions of the J.C.P.O.A.<sup>20</sup>

Put into context, the live-fire exercise conducted in the Strait of Hormuz in the vicinity of a transiting carrier strike group just before implementation day, and ballistic missile testing of missiles capable of reaching Israel just after implementation day, seem to serve Iranian propaganda efforts to display its strength to the world, but likely do not serve Iran well in terms of rejoining the global community of responsible nation-states.

The J.C.P.O.A. served the interests of the P-5+1 (and the rest of the world) by halting, or at least delaying, Iran's development of nuclear weapons in exchange for desperately sought after sanctions relief for Iran.<sup>21</sup> The agreement is the first significant diplomatic accomplishment between Iran and the West since the 1979 revolution, and it is logical to question if this is a one-off event or the first in a series of diplomatic agreements that would lead to the easing of regional tensions. In a speech on June 3, 2016, marking the 27<sup>th</sup> anniversary of the death of his predecessor, Iran's Supreme Leader Ayatollah Ali Khamenei seemed to rule out further cooperation or agreements, saying that trusting or cooperating with the United States would be a big mistake.<sup>22</sup>

There will likely continue to be concerns about J.C.P.O.A. implementation, particularly concerning dealing with financial

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institutions, and agreements in new areas seem unlikely, at least while Khamenei remains supreme leader.<sup>23</sup> That said, continued cooperation at sea, where it serves mutual interests and doesn't compromise U.S., coalition, or G.C.C. principles, can serve to reduce tensions.

## **POTENTIAL FOR COOPERATION BETWEEN IRAN AND U.S./COALITION IN THE REGION**

I.R.G.C.-N Commander Admiral Ali Fadavi admitted in a 2014 interview that, “At the Guard Navy Command Control Center, we talk to Americans on a daily basis. This has been going on for years.” He also went on to say, “Nothing (bad) will happen if they leave (the region),” when pressed about the utility of a hot line between the I.R.G.C.-N and the

U.S. Navy.<sup>24</sup> While the I.R.G.C.-N has long maintained their desire to see the United States leave the region, some of the routine communication Fadavi refers to concerns search and rescue operations, which are a matter of routine in the Gulf and occasionally involve U.S. and coalition sailors rescuing Iranian sailors and returning them to Iran.<sup>25</sup> According to NAVCENT, they have participated in 11 SOLAS events involving Iranian-flagged vessels since 2012.<sup>26</sup>

Search and rescue contact information for both sides of the Gulf is readily available on the Internet and neither side is hesitant about calling the other to facilitate a search and rescue operation, nor are they hesitant to involve the largest maritime operator in the region—NAVCENT.<sup>27</sup> In March 2016,

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the U.S. Army, Kuwaiti Air Force, and U.S. Joint Recovery Personnel Center conducted a search and rescue exercise.<sup>28</sup> Understanding it is important to cooperate where it is in our principled interest, and further understanding that the United States and coalition partners team on occasion with Iranian forces in actual search and rescue events, it would make sense to include Iranian maritime forces, at least regular (IRIN)

forces, in future search and rescue exercises. NAVCENT Task Force 152, responsible for maritime security within the Gulf and normally run by a G.C.C. country, would be ideally suited to coordinate. As the G.C.C.’s Task Force 81 continues to develop in the narrow waters, having an exercise they could run with Iran could provide an outlet to diffuse tensions.

Another possible area of cooperation is in the counter-piracy mission off the Horn of Africa. Iran occasionally participates in counter-piracy missions in or near the horn, but as an independent deployer, which is inefficient and less effective than if they cooperated with NAVCENT’s counter piracy Task Force 151.<sup>29</sup> NAVCENT’s Combined Maritime Force co-hosts a quarterly

conference to ensure shared awareness of piracy trends and counter-piracy activities and to deconflict operations and deployments.<sup>30</sup> Chinese attendance at these meetings in the past has proven fruitful, gaining better coordination of Chinese

counter-piracy efforts with NATO, the European Union, and NAVCENT task forces. Perhaps Iranian attendance would as well.

Expanding into the counter-piracy mission would be a new agreement, which the supreme leader is already on record as opposing. Nevertheless, it is worthy work and work Iran is already conducting, albeit independently, thus it is not out of the realm

of the possible. Attendance at conferences held in G.C.C. countries would obviously require their approval, and the diplomatic effort involved in seeking and gaining such approvals is useful interaction.

These are but two examples where minimal contact in the maritime environment—largely outside the public eye and for good causes—where both sides could build upon the success of the J.C.P.O.A. and help realize President Barack Obama’s desire for further engagement.<sup>31</sup> The inclusion of G.C.C. partners will be especially important, and to gain their support, the engagement must come with the expectation that Iran will become a more responsible maritime neighbor; it is not a given that Iran, especially elements of the I.R.G.C.-N, wants to become one.

Events such as the harassing of *Maersk Kensington*, and attacks on *Maersk Tigris* and *Alpine Eternity*, cannot simply be written off. Seizing U.S. sailors and conducting provocative exercises cannot be virtually ignored. Iran has to be held to account for malign behavior, and that accountability can be done without impacting the J.C.P.O.A., ignoring principles established by maritime conventions and customary international law, or escalating a tactical miscalculation into a strategic event.

Improvement in either or both of these two areas also won’t significantly change the strategic landscape. Whether any agreement on either issue is reached or not, maritime participants in the region will continue to honor the SOLAS Convention;

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and the U.S.-led Combined Maritime Force and Iran will both continue to participate in counter-piracy operations. Even if progress is made, it will mean little unless Iran reduces malign behavior in the maritime and in other areas. Nevertheless, maritime cooperation offers one of the very few avenues in which Gulf rivals can diffuse tension and build confidence, particularly at a time when it is sorely needed.

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