

DEBATE

INDIA AND THE MULTILATERAL EXPORT CONTROL REGIMES

In his keynote address to a National Seminar on ‘Strategic Export Control’ held at New Delhi in April 2012, then Foreign Secretary Ranjan Mathai, in an important policy statement, advocated full membership for India in the four multilateral export control regimes. “While we wish to move forward in tandem on all the four regimes, our engagement with NSG is seen by observers as the most important. The logical conclusion of partnership with India is its full membership of the four multilateral regimes”, he reiterated.¹

The four regimes he was referring to are: the Nuclear Suppliers Group (NSG); Australia Group (AG); Wassenaar Arrangement (WA); and the Missile Technology Control Regime (MTCR). He also disclosed that, by that time, “India has engaged actively with all the four regimes through outreach meetings”. He added that, “from India’s point of view, the main purpose and primary objective of India’s enhanced and sustained engagement with these regimes is full membership.”

This was a natural corollary to the historic 2005 India-United States ‘Nuclear Deal’ that led to the 2008 India-specific waiver in the Nuclear Suppliers Group (NSG) guidelines. This had been further reinforced by the November 2010 joint statement issued during President Obama’s visit to India, that explicitly endorsed India’s candidature for the four multilateral export control regimes. Since then, India has been upgrading national export control regimes, and also simultaneously informally gauging international reactions to its intention to join the four regimes.

India applied for membership of the ‘Missile Technology Control Regime’ (MTCR) in 2015, and formally joined the regime as a full member on June 27, 2016.

Earlier, on May 10, 2016, India had formally applied for membership of the NSG. In a forwarding letter to the NSG chair at the time, Argentine Ambassador Rafael Mariana Grossi, Foreign Secretary S. Jaishankar wrote: “The decision to seek participation in the NSG reflects India’s strong support for international efforts to prevent the proliferation of nuclear weapons. India recognises the important contributions to this objective made by the NSG. India’s participation in the NSG would strengthen international efforts to prevent the proliferation of nuclear weapons.”

The June 23-24, 2016 plenary session of the NSG, held in Seoul, could not decide on the application, with China and a few other nations raising questions about ‘process’, and insisting on drawing up ‘criteria’ for non-NPT countries. An extraordinary plenary session of the NSG is likely to be held later this year to look at the basic questions raised. As per news reports, the outgoing Chair, Ambassador Grossi, has also been appointed as a “facilitator of the Chairperson to have informal consultations with the Participating Governments (PGs) in the group”.

It is also believed that the Government had spared no efforts to engage with all the NSG members, specially the outliers, in a bid to convince them of India’s impeccable credentials. All along, China has been opposing India’s candidature, more for Geo-political reasons than on basic NSG principles and procedures. Some other members have been uncomfortable with admitting India due to various other reasons - none of which are insurmountable.

Questions have been since raised as to whether India’s application was premature. Some of these include: Was it done without proper planning and consultations? Given the uncertainty of the membership, was not the one time waiver enough?

In a recent interview to a web-based journal, Ambassador Shyam Saran, who was intimately connected with the India-US Nuclear deal negotiations and the subsequent NSG waiver, recalled a similar disappointing experience even in August 2008 – at the first plenary meeting to decide on the NSG’s waiver for India (when 20-30 countries were not fully in favour of the waiver) but this did not deter India from engaging even more.² He was answering a direct question as to whether India had reason to be disappointed with the fact that the recent Seoul meeting was unable to resolve this issue - or, is, what we are seeing, as the beginning of a process will eventually work out in India’s favour?

An IDSA Comment of July 6, 2016 on the subject categorically states: “India’s membership bid for the Nuclear Suppliers’ Group was not delusional, untimely, hyped or an overreach by Prime Minister Modi, but is something that India has been working on for many years”.³

Questions continue to be raised on the chances of our accession to these regimes in the face of seemingly vehement stand by China to keep us out and whether the expected gains are worth the effort. In spite of such questions, India will continue to push towards the stated aims. How should India now proceed to achieve that stated goal?

The Indian Foreign Affairs Journal invited six experts in the field to comment on the above, and offer their recommendations on the future course of action. Their views are published in the following pages.

(The views expressed by the authors are their own, and do not reflect the views of the Indian Foreign Affairs Journal, or that of the Association of Indian Diplomats)

Notes

¹ http://idsa.in/pressrelease/FullMembershipforIndiainExportControlRegimes_Mathai

² <http://thewire.in/46655/chinas-opposition-to-indias-nsg-membership-not-an-elemental-issue-says-shyam-saran/>

³ http://idsa.in/issuebrief/india-nsg-bid_balachandran-spandalai_060716

India May Have to Wait for a Possible Opening in the Future

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Ever since India conducted a Peaceful Nuclear Explosion (PNE) in 1974, it has been at the receiving end of technology denial regimes put in place by the U.S. and its western allies. These regimes have certain common characteristics. They are made up of members who have significant and relatively advanced scientific and technological capabilities in sectors which are the subject of export controls. They are informal in nature and operate on the basis of consensus. Admission of new members, for example, must be approved by all members of a particular regime. They all operate on the basis of “trigger lists” or an agreed list of items and technologies which are subject to export controls. There is no compliance mechanism and members are expected to apply the agreed export control guidelines on a voluntary basis. Thus these operate outside the formal multilateral or United Nations system and have no sanction under international law. It may also be noted that being a member of any of these regimes does not automatically entitle a country to have access to controlled items and technologies from other member countries. This is still subject to the sovereign decision of any individual member country.

Currently there are four important multilateral export control regimes. These are the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime (MTCR) and the Nuclear Suppliers’ Group (NSG). Since 2010, India has declared its intention to seek membership of all 4 regimes. It has been successful in joining the MTCR in June 2016. Its application to join NSG as a member is still pending since China’s opposition has held up the required consensus. India has not yet formally applied to join the Wassenaar Arrangement and the Australia Group for which domestic actions are still required to conform to their guidelines. Once these actions have been taken there is no reason to believe that India’s membership of these two regimes would be problematical. It is the NSG membership which is likely to remain a challenge.

It may be worthwhile to consider each of the four regimes in greater detail.

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Wassenaar Arrangement

This agreement came into being in 1996 as a successor to the earlier Coordinating Committee for Multilateral Export Controls (COCOM) which was a Cold War mechanism to control the flow of conventional weapons and, more importantly, dual use goods and technologies, from western allied states to communist countries, in particular, the then Soviet Union and China. With the dissolution of the Soviet Union and the end of the Cold War, COCOM was transformed into the Wassenaar Arrangement in 1996, with the mandate to “contribute to regional and international stability by promoting transparency and greater responsibility in transfers of conventional arms and dual use goods and technologies to prevent destabilizing accumulations of those items.” The regime operates on the basis of agreed guidelines and trigger lists which are reviewed from time to time. There are also reporting requirements related to such transfers for member countries. The Wassenaar Arrangement has its secretariat at Vienna. There are currently 41 members including several former Warsaw Pact countries.

The Australia Group

The Australia Group was set up in 1985 (though its first meeting took place only in 1989) to meet concerns over the use of chemical weapons by Iraq against Iran during the 8 year Iran-Iraq war (1980-88). It had become apparent that Iraq had been able to recombine chemical agents available in the international market into chemical weapons. In the initial stages, the Group focused on identifying chemical weapon precursor agents which were included in the trigger list. At a later stage, the export controls were widened in scope to include chemical production equipment and technologies. By 1990 the Group had also included biological agents which could be used for the production of biological and toxin weapons, in its export control list. The Group began with a membership of 15 countries plus the European Union (EU). It currently has 42 members, all of whom are parties to the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. The guidelines of the Group have two key elements. One is the principle of no undercutting which stipulates that no member country will undercut another which may have imposed an export ban relating to any item on any non-member country. The “catch-all” principle allows any member to go beyond the trigger list to impose a ban on additional items in case there is apprehension that the export of such item or items to a target country may contribute to its development of chemical, biological or toxin weapons. These additional

principles go beyond those of other control regimes and could impact on the interests of chemical, pharmaceutical and bio-chemical industries particularly in non-member countries.

Missile Technology Control Regime (MTCR)

The Missile Technology Control Regime was established in 1987 with the aim of limiting the proliferation of missiles capable of delivering weapons of mass destruction. Members agree to prohibit the transfer of delivery vehicles which have a range of more than 300 kilometres and are capable of carrying a payload of more than 500 Kilograms. From an original membership of only 7, MTCR now has 35 members, including India. The MTCR operates through an Equipment, Software and Technology Annex but, like the Australia Group, also has a “no-undercutting” provision i.e. that if any member has denied a non-member access to any item not on the trigger list, other members will adhere to the same prohibition.

While China is not a member of MTCR it had declared its intention to adhere to its guidelines in 1991. This assurance was reiterated in subsequent declarations. China applied to become a member in 2004 but there is, as yet, no consensus, on approving its application. Since India is now a member of MTCR, it is in a position to block any future consensus on China’s membership just as China is currently doing with respect to India’s proposed membership of the NSG.

In 2002, MTCR was supplemented by another informal but more inclusive understanding known as the International Code of Conduct against Ballistic Missile Proliferation or the *Hague Code of Conduct*. The Code has been accepted by 119 countries. However, this is declaratory and voluntary in nature. India is also a signatory.

Nuclear Suppliers Group (NSG)

The NSG was set up in 1974 after India’s PNE the same year, but was originally known as the London Group (because the initial meetings were all held in London). At this stage there were only 7 members in the Group. The Zangger Committee, that continues to exist in parallel, published a set of Guidelines in 1978 to apply to the transfer of nuclear items for peaceful purposes which could be diverted to unsafeguarded nuclear fuel cycle activities and to nuclear explosive activities. It may be noted that at this point the control regime applied specifically to nuclear related items and not to dual use

items and was projected as being applied in the context of Article III of the Nuclear Non-Proliferation Treaty (NPT), which concerns the peaceful uses of nuclear energy by non-nuclear weapon states. These Guidelines were published in 1978 by the International Atomic Energy Agency as document INFCIRC/254.

Following the NPT Review Conference in 1990, there was a further evolution in the mandate of the NSG. At its meeting held in 1992, it adopted a fresh set of guidelines related to the export of dual-use equipment, material and technology (i.e. those which could have both nuclear as well as non-nuclear applications) which could make a significant contribution to an unsafeguarded nuclear fuel cycle or nuclear explosive activity. The Guidelines, in practice, adopted full-scope safeguards as condition of supply, which meant that in order to have access to nuclear and dual use equipment, material and technologies, a recipient non-nuclear weapon state must have all its nuclear facilities under international safeguards. The Dual Use Guidelines as these new conditionalities came to be known, were published as Part 2 of INFCIRC/254, while the original Zangger Committee Guidelines became Part 1 of the document. Another important development in further tightening the export controls was the adoption of a “catch all” provision in 2004, allowing any member country to impose restrictions beyond the trigger list in case of apprehension that transfer of any non-listed item may contribute to nuclear proliferation in a target country.

It was in 2008 that NSG adopted, by consensus, an unprecedented and exceptional decision allowing its members to engage in civil nuclear commerce with India on the same terms and conditions as incorporated in the Indo-US nuclear deal. India was given a waiver from the Guidelines of the NSG which prohibit civil nuclear commerce with a country which does not have all its nuclear facilities under international safeguards. India had already harmonised its export controls with those of the NSG as part of the nuclear deal with the U.S. The NSG decision was a recognition of India’s impeccable record in nuclear non-proliferation even though it is not a signatory to the NPT.

Again, it is important to point out that the NSG waiver is an enabling decision and does not oblige each and every member of the group to give India unfettered access to civilian nuclear material and technology.

India applied for membership of the NSG in May 2016 after having ascertained that its application had a good chance of being approved by consensus. It had the support of the U.S., France, the U.K. and Russia, all permanent members of the Security Council. An overwhelming majority of

the membership was in favour of India's entry and the smaller countries who had held out in 2008 on the waiver until the last moment, namely Austria, Ireland, New Zealand and Switzerland were not expected to persist with their opposition.

In 2008, China had opposed the waiver too, but preferred to work through the smaller countries rather than take an explicit position itself. To India's repeated requests for support, the Chinese had a formulaic response: China supports civil nuclear cooperation with India but it would not want to undermine the international non-proliferation regime. It never took a public position opposing the waiver decision. In fact on the day the NSG was scheduled to take a decision on the waiver, China conveyed its support to the Indian delegation the same morning, ahead of some of the other hold-outs. On the basis of this earlier experience, it was felt that in case India was able to mobilise overwhelming support for its membership, China was unlikely to be the last man standing blocking India's entry. This assumption proved to be wrong this time round.

Even before the NSG plenary meeting held in Seoul to discuss India's membership application in June 2016, China made a rare public statement opposing India's membership, insisting that NPT adherence was a key criterion for entry, even though this is not included in the NSG Guidelines. It was apparent that unlike in 2008 China was prepared to stand alone, if necessary, to block India's application. While consultations are continuing on the issue, China has given no indication that its position may undergo a change in the foreseeable future.

The changed Chinese posture may be due to various reasons. One, is a more elevated value of its alliance with Pakistan which is not only valuable as low risk, low cost proxy against India but is now an important component of China's long term strategic plans, in particular, its One Belt One Road initiative. The proposed China-Pakistan Economic Corridor (CPEC) which will link China's Xinjiang province with Pakistan and terminate at the Chinese assisted port of Gwadar on Pakistan's Balochistan coast, provides a critical node where the maritime and land corridors converge. Therefore, there is greater willingness to pay a higher political cost in relations with India for the sake of a much stronger alliance with Pakistan. Two, China is a more powerful country in 2016 compared to 2008. It has a GDP five times that of India and there is less incentive to be sensitive to India's concerns. Nor is China as amenable to U.S. persuasion as it was in 2008. For these reasons it is unlikely that China will allow India's entry into NSG unless Pakistan's entry can be assured at the same time. Pakistan has also applied for NSG membership this year soon

after India's application was tendered. And since a majority of NSG members are not all enthusiastic of bringing a serial proliferator like Pakistan into their ranks, India may have to wait a longer time for a possible opening in the future.

It has been argued that India's lack of membership of the NSG is not a limiting factor since the 2008 waiver gives the country access to nuclear materials, equipment and technology it has been seeking for the last several years. The country has signed several long term contracts for supply of uranium with supplier countries and has concluded MOUs with Russia, France and the US for supply of new generation, high capacity nuclear power reactors. A civil nuclear agreement with Japan has been finalised and should be concluded soon. Thus in practical terms, NSG membership is no longer necessary to enable access to the civil nuclear energy market. However, NSG membership is important for a number of reasons. One, the waiver given to India could, theoretically speaking, be reversed by a subsequent decision of the NSG in a changed geopolitical scenario. If India is a member, the consensus rule will ensure that such a possibility, however remote, is obviated. Membership will formalise the waiver. Two, the NSG's Guidelines are constantly evolving and are amended from time to time. There is a provision for India to be consulted when such amendments are being made but the country will have no role in the amendment process as a non-member. In fact several amendments have been made to the Guidelines since 2008 and India, in seeking membership, will need to conform to all these changes even though it has not been a party in the amendment process. Membership will ensure that India is a full participant in all future amendment processes and is able to safeguard its interests more effectively. Three, despite the waiver India is a grey zone in the international nuclear non-proliferation regime. It is no longer an outlier but neither is it fully inside the tent. Membership would remove any ambiguity in this respect. For all these reasons India should continue to press its case for NSG membership but without making it into an elemental issue of its foreign policy.

As has been pointed out earlier, China has applied for membership of MTCR but has been unable to mobilise support among the members of the group because of its murky record on missile proliferation. India on the other hand is already a member and can block a consensus on China's entry in the future. However, there is no evidence of Chinese keenness to join. A trade-off may not be a feasible proposition but perhaps it should be explored nevertheless to gauge Chinese thinking if not much else.

India's pursuit of membership of these multilateral export control regimes has been driven by the need for access to high technology equipment, materials and know-how without which Indian industry cannot upgrade itself rapidly and remain globally competitive. Membership of these regimes also enables the country to conform to global best practices and strengthen its reputation as a responsible major power committed to the goals of non-proliferation of weapons of mass destruction. It also enhances India's standing as a country which has significant scientific and technological capabilities since all the four groups are made up of the most technologically advanced countries of the world. It may be noted that there are 30 countries who are concurrent members of the four groups. They form a powerful and privileged body which are the guardians, self-appointed for sure, of the most advanced and sensitive technologies in the world. Today India is increasingly being looked at as a partner in preventing proliferation of sensitive technologies and not as a target of such efforts. This is a big change from the past.

This change does not alter India's role as a champion of developing countries who have been struggling against the essentially oligarchic structure of global governance. While striving to keep intact its developing country constituency, which continues to add heft to its diplomacy, India has unmistakably shifted its stand in regard to non-UN multilateral regulatory regimes, seeing its interests as a rapidly growing, increasingly globalised, emerging economy, better served as an insider rather than as an outlier. There is no doubt that membership of these regimes has improved India's access to a whole range of modern technologies. Most of the technology denial regimes operating against India since 1974 have been dismantled though a few restrictive provisions still remain. India now has full access to the international civil nuclear energy market and the serious shortage of uranium fuel that bedevilled the nuclear power generation sector just prior to the conclusion of the Indo-U.S. nuclear deal is now a distant memory.

The elaborate technology denial regimes targeting India began with export controls over nuclear-specific materials, equipment and technology but later expanded in scope to cover the entire spectrum of dual use items and technologies, even if the link with nuclear was tenuous. Thus the transfer of supercomputers to India were prohibited by the U.S. in 1983 because they could conceivably assist nuclear weapon related programmes and not just facilitate weather prediction which India wanted them for. The U.S. also sought to prevent Russia from transferring cryogenic engines and technology for India's civilian space programme in 1992, declaring it to be in violation of MTCR guidelines and a potential contributor to the nuclear capable ballistic

missiles which India was developing as part of its missile programme. In seeking the dismantling of the technology denial regimes, it was clear that the support of the U.S. would be the critical, since it was the lead country in all these regimes. It was also clear that it was the nuclear key which would unlock the rest of the regimes since it was the foundation on which the entire edifice of the multilateral export control system had been built layer upon layer. The Indo-U.S. nuclear deal was therefore, a strategic initiative designed to open the way to the dismantling of the technology denial regimes and that is precisely what has been unfolding over the past 8 years since the NSG waiver. Most advanced countries like Germany and Japan follow the U.S. lead in respect of export controls. Once the U.S. took the lead in reviving civil nuclear cooperation with India, U.S. allies promptly relaxed their own controls on hi-tech exports to India. This has been a significant gain for India.

India has always been prudent in maintaining strict controls on the transfer of sensitive technologies, in particular nuclear technologies, to third countries. It has operated a strict export control regime since the early years of its independence and has strengthened it in recent years. The key export controls are in the form of the Special Chemicals, Organisms, Materials, Equipment and Technology or SCOMET list which is maintained by the Directorate General of Foreign Trade and which is regularly updated. As part of the Indo-U.S. nuclear deal and subsequent waiver from the NSG, India adjusted its SCOMET list to conform to the trigger lists maintained by the NSG and MTCR respectively. In addition, India adopted the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act of 2005, better known as the WMD Act, whose objective is to implement obligations under the UN Security Council Resolution 1540. The WMD Act incorporates comprehensive export control legislation to prevent the proliferation of sensitive technologies which may get used for the development of WMDs by non-state actors. This umbrella legislation was also helpful in reaching agreement on civil nuclear cooperation with the U.S. and in obtaining the NSG waiver.

While India now has access to a range of advanced technologies it has yet to put in place an efficient system for their assimilation and for using them as a catalyst for spurring domestic innovation and building indigenous capabilities. This is particularly the case with respect to defence technologies. It is hoped that the energy that is being expended in obtaining entry to the multilateral export control regimes is also matched by a determination to raise domestic capabilities and standards.

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India's Inclusion into the NSG: A Paradigm Shift

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Four groups to regulate commerce in weapons of mass destruction (WMD) and related delivery systems came into being between mid-1970s and mid-1990s. This was the period during which India was the most bitterly estranged from the non-proliferation regime given its non-membership of NPT and the conduct of a peaceful nuclear explosion in 1974. The Nuclear Suppliers Group (NSG), in fact, came up specifically as a result of the Indian action that exacerbated US concerns of nuclear proliferation. Its own Atoms for Peace programme had encouraged peaceful nuclear programmes in many non-NPT countries that were not necessarily obliged to subscribe to full scope safeguards by the International Atomic Energy Agency (IAEA).

In an effort to plug this gap, the NSG was conceived as “the first high-level coordinated attempt by the major industrial states to develop common rules to ensure that non-nuclear weapon states could not import nuclear materials, supplies, and technologies without accepting international safeguards”.¹ It grew as a sort of club of like-minded nations harbouring the broad objective of promoting non-proliferation. It created and has maintained a periodically updated trigger list, which identifies items whose export requires licensing, and in some cases end-user verifications. All group members are expected to harmonise their national export controls to match the guidelines of the multilateral group, though these are voluntary and non-binding with no enforcement mechanism.

Owing largely to its NPT outlier status, India became a victim of NSG technology denials. Obviously, New Delhi developed a negative perception of the group, viewing it as a discriminatory instrument created for the strategic and financial gains of supplier nations. However, by the turn of the millennium, India's changed circumstances made it necessary for it to reconsider its relationship with the group. A need for engagement was felt once a decade of economic liberalisation by the early 2000s had given rise to an expanding industrial economy. Growing national capabilities and needs of high technology sectors such as space, defence, pharmaceutical, chemicals and energy necessitated an engagement with global industries in these spheres.

In fact, the need for India to find a way of redesigning its relationship with the NSG can best be explained through the growing electricity demand

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in the 2000s once the economy perked. Burgeoning imports of thermal fuels and growing environmental concerns owing to widespread proliferation of coal-fired plants led to a renewed interest in the rapid expansion of the nuclear energy programme. The indigenous nuclear programme had been chugging along at a slow pace for decades. Technology denials and severe capacity constraints because of inadequate availability of uranium and technology for larger capacity reactors had kept India's nuclear programme from going beyond 2 percent in meeting national electricity requirements even after four decades of the programme. Potential for increasing the share of nuclear electricity through import of uranium for indigenous power plants or larger reactors was, however, hamstrung by India's non-acceptance of full scope safeguards, a mandatory requirement of the NSG. A need was then felt to find a way around the NSG guidelines.

A breakthrough became possible in 2005 when the joint Indo-US statement in July that year mentioned the possibility of engagement between India and USA for civilian nuclear cooperation. Describing India as a "responsible nuclear power", then American President George Bush, Jr. hinted at the possibility of bringing India into the non-proliferation mainstream despite its non-membership of the NPT and non-acceptance of full-scope safeguards. The US was certainly influenced by three factors in making this exception for India: its huge market potential, including in the nuclear sector; its ability to be used as a counter for rising China; and environmental concerns from growing emissions from large scale fossil fuel used for electricity generation.

USA went through a lengthy and acrimonious process in its own country and with its allies of creating the legislative framework for mainstreaming India. On its part, India undertook the laborious tasks of harmonising its export controls with the groups and creating a separation plan that allowed it to place indigenous reactors under IAEA safeguards. An Additional Protocol was also signed. Finally in 2008, the NSG granted a waiver to its members to engage in nuclear commerce with India. This allowed India to retain its strategic programme for deterrence and break out of the NPT linkage that had kept it straitjacketed for a long time. Immediate benefits were evident in the import of uranium that allowed plant capacity factors to rise and in the signing of nuclear cooperation agreements with nearly a dozen countries.

The Pending Case of NSG Membership

One major challenge, however, that is pending is India's membership of the NSG.² This task is quite significant not only from the Indian perspective, but

also the most contentious from the perspective of the non-proliferation community. New Delhi presented its application for membership to the NSG in May 2016. It came up for consideration at the June 2016 NSG plenary meeting, but despite a majority of members being in favour of India's inclusion, the consensus-based decision making process was stymied largely by China. Austria, Ireland and New Zealand too raised certain procedural issues, but it was expected that these technical concerns could be satisfied. It is China that raised several political objections and has managed to obfuscate the issue.

Amongst China's many objections is one that demands a similar consideration of membership for other NPT holdouts. It obviously has only Pakistan in mind. By tying Pakistan to India's coattails, China has cleverly sought to stump India's chances since those who are vehemently against Pakistan's entry into the NSG are forced to rule against India's membership too even though there is no equivalence between the Indian and Pakistani cases. The scale and nature of their nuclear power programmes, the capabilities of their nuclear industries to link up with the global nuclear supply chains, and the level of responsibility shown through their programme histories are areas where there is a complete dissonance. India, in fact, fulfils all the factors for consideration as identified by the NSG itself, including adherence to the principles of NPT, which China has tried to mischievously morph into membership of NPT. Pakistan does not fulfil these.

The question to ask then is why the rest of the NSG members do not question China on Pakistan. The answer may lie in the clout of China's nuclear market today. Undertaking simultaneous construction of 22 nuclear power plants (accounting for more than one third of all reactors being built globally), nearly every major global nuclear supplier has a share in the Chinese nuclear pie. China is importing from, as well as co-developing nuclear reactors with France, Russia, and the US. It is building nuclear reactors in the UK and Argentina. Given the downturn in the fortunes of the nuclear industry after Fukushima, the nuclear marketplace today belongs to the buyer, not the seller. And China is the biggest buyer on the block. Who then can afford to upset it?

Future Steps in India's Quest for NSG Membership

How should India continue its quest for NSG membership? Two clear sets of actions can be identified. The first of these is to debunk all attempts to link India's membership of NSG with that of Pakistan. India must press for the international community to treat the cases of India and Pakistan independently of one another and on the basis of their individual merits and demerits. In

fact, India must highlight the fact that in doing so, the non-proliferation regime has a golden opportunity to set an example that strongly dis-incentivises wrongful nuclear behaviour. Grant of membership or even the consideration of Pakistan's application along with India would only embolden Pak military to continue its use of terrorism as an instrument of state policy from behind the shield of nuclear weapons, and foment dangers of deployed TNWs – both of which are matters of deep concern for international security. Denying Pakistan NSG membership till such time as tangible reforms are visible in its behaviour offers a leverage that should be used judiciously.

At the second level, the Indian nuclear market must once again appear lucrative. When it did so in the mid-2000s, President Bush (actively supported by American nuclear industry) managed to engineer the huge transformation in India's nuclear relationship with the world. Since then, and especially after Fukushima, the Indian nuclear market had started to look dull. The nuclear liability law perceptibly weighed against the supplier, and public acceptance stalemates somewhat took the sheen off India's nuclear ambitions. Things are beginning to look up since, and more such efforts, including those that highlight the potential of Indian public and private nuclear industry to become a part of the global nuclear supply chain, will enhance international interest in India's nuclear programme once again. This will, in turn, increase political pressure for India's inclusion into the NSG.

In any case, India has already secured the freedom to import nuclear material, technology and reactors from the supplier group. However, NSG membership would cement the exception and free India from the repeated attacks of non-proliferation hawks who continue to question the exceptionalisation. In addressing their concerns and repeatedly explaining the merits of India's participation in non-proliferation, the country expends precious energies of the Indian nuclear diplomacy. Becoming an NSG member would seal the issue. It would also facilitate ease of nuclear business across suppliers instead of having to resolve individual issues with each country. Also, as a deciding voice in the group, India would have the chance to share best practices and use a common data base to check proliferation as well as inject its own proliferation concerns into the regime.

The benefits of the membership would be many though the process of gaining membership is likely to be long. China will try its best to tire out India and the other NSG members by raising one issue after another. India will have to remain patient and continue its diplomacy quietly and confidently to address the objections, technical as well as political, of the few nations still left to be won over.

In the final analysis, it must be realised that India's membership into the NSG could be nothing less than a paradigm shift for the non-proliferation regime. To include India as a member, a country that triggered the very creation of the NSG and whose technology sanctions and denials were crafted to target India, is not an idea easy to stomach for many of the nuclear suppliers. For China too, having India as a nuclear equal is an unpalatable thought. However, patience and perseverance in chipping away at the major and minor objections through proactive outreach to all NSG members will have to be the key for India to shape a new nuclear order that suits its national interests and unique nuclear stature.

Notes

¹ William Burr, "A Scheme of 'Control': The United States and the Origins of the Nuclear Suppliers' Group, 1974-1976", *The International History Review*, Vol.36, no.2, pp 252-276.

² India's membership into the MTCR came about in Jun 2016. The country is yet to apply for inclusion into the Australia Group and the Wassenaar Agreement since complete harmonisation of national lists with the trigger lists of the two groups is yet to be undertaken.



India and NSG: It's Simply Power Politics

Rajesh Rajagopalan*

Three basic realities have to dictate India's approach to the membership of the Nuclear Suppliers Group (NSG). The most important is that India's bid will be decided by power politics, not by the merits of India's case. This simple reality has to determine India's strategy in pursuing the membership. A second reality has to have an equally important consideration in India's policy choices: membership of the NSG is important but not vital for India. Finally, though the US can help somewhat in supporting the Indian case for membership, it has so far not been able to overturn China's veto. What this means is that if entrance to the NSG is considered sufficiently important for India, India will have to bargain with China, which is complicated by another imperative: that India must not let go of the moral high-ground that it has over China as a consequence of China's unprovoked unfriendly act of blocking India's membership in the first place.

Power Politics

That India's NSG membership will be decided by power-politics should not be a particularly difficult point to understand, especially after the most recent experience when China deliberately blocked the consideration of India's case at Seoul. Still, the centrality of power politics is ignored in much of the Indian debate on foreign policy, the NSG issue included, because India has yet to overcome its traditional habit of focusing on rights and obligations of the international community. Instead, the focus largely tends to be on two issues: either on outlining the justifications for the India case, or on a critique of India's diplomacy.

On the first of these, the justification for India's membership, the problem is that India's application is not and will not be judged by the merits of the Indian case, particularly by China. Though merits of the case are important for some of the smaller countries in the NSG and for some arms control advocates, even the judgement of merits is never going to be objective. These smaller countries have a rather one-dimensional and textual approach to arms control and the NPT. The arms control lobby, on the

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other hand, sees the fight against India's membership as a continuation of their fight against the special treatment that India received against their objections, in both the US-India nuclear deal and the NSG waiver. Moreover, they appear unconcerned about being used blatantly as China's cats-paw in the NSG. There is little that India can practically do that will convince them about how justified India's case for membership is. Suggestions that India can sign the Comprehensive Test Ban Treaty (CTBT) to assuage these concerns are non-starters because not only will these not satisfy China, which has not even raised such demands, but also ignores the fact that it will only lead to demands for further concessions. None of this is to suggest that India has no need to make a proper justification for its membership, as the Ministry of External Affairs has already done. What is suggested here is that while India needed to make the kind of detailed application that it did prior to the Seoul meeting in June, New Delhi should not expect that this will determine the fate of India's application.

A second red-herring in much of the Indian debate has been to focus on India's diplomatic strategy to suggest, paradoxically, that either India put too great an emphasis on the issue of membership or that it did not put sufficient diplomatic effort to reach out to all NSG members, particularly China. These two are also obviously wrong. India could not have simply put in an application without putting its shoulders behind the effort, and that effort included reaching out to China at all levels, including the highest.

If India's efforts did not succeed, it was because China decided that it would not permit India to enter the NSG, which it was able to do because of the consensus rule of the NSG. It is important to remember that this was not the consequence of any particular Indian action. Beijing was not retaliating to any unfriendly Indian act. Neither was China's decision the consequence of any expectation that India's membership would cost China in any way. In essence China's action was a wilfully unfriendly act, demonstrating both China's power and as a consequence, China's disregard for the consequence of India's displeasure.

This suggests that India has to assume that the same kind of power politics will be at play in future in consideration of India's NSG membership. If this is so, then New Delhi should expect that China will continue to oppose India's membership purely for political reasons than because of any demerit in India's case. Moreover, given the consensus rule under which the NSG operates, it is very likely that China will be able to prevent Indian membership or potentially even the consideration of India's membership.

NSG: Important but not vital

The second reality that India has to keep in mind is that while NSG membership is important for India, it is not vital. India already has the NSG waiver that allows it to engage in nuclear commerce and accomplish much that it needs to do as regards international collaboration with its domestic nuclear power industry and even research and development. The NSG membership is useful because it is the rule-making body that can potentially harm Indian interests if India is not within the body to ensure that its interests are protected. However, the consensus rule is helpful to India because New Delhi can always use its many friends within the body to prevent any such negative rules from being framed, especially by China. This is not ideal, but not gaining admission is not an immediate danger either. The NSG membership delivers India a number of benefits that go beyond simply the nuclear issue, including the enhancement of India's general standing in the international order. These are all important, but none of this is vital for India.

The Limits of American Power

The third reality that New Delhi should keep in mind as it formulates its strategy is that the US might not be able to help India overcome China's opposition. The US has actively supported India's bid for membership but to expect that Washington will be able to force China to accept India's membership is probably wishful thinking. There are several reasons for this. First, the balance of power has shifted somewhat, even in the last ten years, towards China. Though claims about America's decline are exaggerated, there is little doubt that some decline has taken place and that this affects Washington's capacity to force the issue. The US is still valuable in other ways. It can definitely lean on some of the other, maybe smaller NSG members, to ensure that China's opposition to India's NSG membership does not find support within the group. It is reasonably clear that the US will not be able to go beyond this.

Second, the US is itself going through one of its phases of quasi-isolationism. President Obama came to office believing that the US was over-committed and was therefore, intent on reducing the US' global commitment. This is visible across the world, from the Middle East to Europe to Asia. Though the US is now, belatedly, trying to 'rebalance' in Asia, this seems half-hearted at best. The American domestic mood remains surprisingly isolationist as can be seen from the fate of the Trans-Pacific Partnership

(TPP), which both presidential candidates are now opposing. This unwillingness to bear global responsibilities, including balancing China, exaggerates the relative American decline, and hence, should force India to recalibrate its expectations on specific issues such as the NSG.

Third, for the next few years or so, the presidential election campaign and the establishment of a new administration in Washington DC will make it difficult for the US to pay sufficient attention to international issues such as India's membership at NSG. New Delhi will have to take this into consideration in its expectation of US assistance.

Indian Strategy at NSG

What should India do given such circumstances? It would be prudent for India to consider three different strategies and ignore two others.

The first strategy India can employ is to isolate China. The Indian strategy can aim at isolating China in the NSG so that China has to stand alone in opposing Indian membership. This was to some extent what India attempted to do at Seoul. It did not succeed as much in Seoul because a number of countries did raise questions about India's application. On the other hand, these questions were raised only after it was decided (at China's insistence) that the issue of membership itself would not be considered though discussions could take place, which might have made it easier for some countries to raise questions. Moreover, raising questions is not the same as opposing Indian membership, and it is possible that at least some of the countries that raised questions might not actually vote against India. Still, India can attempt to use greater and direct diplomatic efforts, and persuade other friends such as US, UK, France, Australia and others to try to convince some of the smaller states to not oppose India's application, thus isolating China.

However, it is not clear that isolating China would necessarily change China's mind. Previously, at a time when China was trying to convince its neighbours that its rise was going to be peaceful, it took efforts to ensure that it was not isolated diplomatically. This helped India overcome China's opposition to the NSG waiver, to give one relevant example. However, China has long since abandoned such concerns and it appears quite willing to stand alone to demonstrate its capacity to do so. This suggests that the strategy of isolating China in the NSG, even if India is successful in doing so, might not necessarily force China to change its stance.

A second strategy for India is to reduce its stakes in the NSG. Considering that India might not be able to overturn China's veto as well as the fact that NSG is not vital to India, it makes sense for India to reduce its stakes in the NSG membership. Pushing the NSG case can only lead to further demonstration of India's weakness and China's power. There was an additional logic at the Seoul meeting for pushing India's membership, which was forcing China to reveal its hand, but this is unnecessary at this point because China has already demonstrated its unfriendliness towards India. Those in New Delhi who are unconvinced about China's hostility to India are unlikely to be convinced by further demonstrations of that hostility. India can take a leaf out of China's own playbook. China was not admitted to the Missile Technology Control Regime (MTCR) when it applied in 2004 but once its application was rejected because of suspicion that Chinese firms were continuing to transfer critical missile technology, China has not attempted to escalate the issue. Since China shows no great interest in MTCR, it is difficult for others to use it as a bargaining chip with China. Similarly, India should reduce its emphasis on NSG membership.

Alternatively, if New Delhi decides that NSG is vital for India, it could take the opposite tack of making support for India's NSG bid a litmus test for bilateral ties. India did appear to be going down this path at Seoul but it backed off subsequently. If India does decide to raise the stakes, it should also do this with determination to follow through. Indian credibility is low because India repeatedly raises the stakes, but does not follow through. In Seoul, China was able to engage in a blatantly unfriendly act against India without paying any price for it, despite New Delhi having options to retaliate. For example, India could have been much more direct in its criticism of China on the South China Sea verdict by the Permanent Court of Arbitration (PCA). If New Delhi does decide to raise the stakes, it should consider retaliatory options before-hand. India can expand its military relationship with Vietnam (going beyond the US \$500 million loan) and other regional states, including exploring asymmetric ways of dealing with China's military expansion. In addition, if China does revive its application to MTCR, India could ensure that China is not allowed to join (despite India's earlier statements that it would not oppose China's MTCR membership). India should also play the spoiler in institutions that China is using towards its self-promotion, such as BRICS (Brazil, India, China, Russia, and South Africa), the Shanghai Cooperation Organization (SCO), RIC (Russia, India, China), and others. India has traditionally been uncomfortable with such linkage politics, but such linkage politics provide valuable source of pressure on China that India should

exploit. Playing such linkage politics would also make China much more considerate about India's interests than it is showing now.

Just as there are strategies that India needs to consider, there are also self-defeating strategies that India should avoid. The most important among these is that India should be careful in directing its retaliation at Beijing and ensure that any such retaliation does not affect others, especially India's friends. After the disappointment at Seoul, India suggested that it will not be able to sign the Paris Climate Agreement because of its failure to gain membership into the NSG. It is unclear how this in any way punishes Beijing. On the contrary, since this hurts India's friends and raises an unnecessary issue of confrontation with them, it indirectly benefits Beijing. New Delhi might have genuine concerns about the Paris accord and might require more time to prepare before it signs. But linking it to the NSG was imprudent.

Another self-defeating strategy would be to seek change in China's opposition to India with concessions. Considering that India is the aggrieved party, because of the unprovoked nature of China's hostile behaviour, it is China that needs to make-up with India, not the other way around. Indeed, New Delhi must repeatedly let China know that it is Beijing's responsibility to set right the harm done. For example, India put Australia in the dog-house after its unwarrantedly harsh response to the Indian nuclear tests in 1998. China is not Australia but this should be the template for treating China. Offering additional concessions to China to get China to shift its stand would fundamentally undermine India's interests, especially given that NSG is not vital, as stated earlier.

India's NSG membership issue demonstrates the centrality of power politics in China's behaviour. India has little choice but to join the game.

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India Should be Wary of Additions to the 2008 Criteria

G. Balachandran*

In pre-2005 period, most Indian analysts had approached the four export control regimes – the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), the Wassenaar Arrangement (WA) and the Australia Group (AG), with suspicion, which was quite natural considering the fact that the first two, namely the NSG and the MTCR had actively worked against Indian interests. The NSG did so by denying fuel for the Tarapur Atomic Power Station (TAPS) and the MTCR did so by providing ground to the US to seek to prevent transfer of cryogenic engine technology, a purely civilian space technology, from Russia to India, thereby setting back the Indian space programme by more than a decade.

However, after July 2005, with the conclusion of the India-US nuclear cooperation deal and the September 2008 NSG exemption for India from some of the restrictive provisions of the NSG guidelines, the Indian attitude and approach to these regimes turned favourable and India began to consider positively, the possibility of becoming a member of all these regimes. This attitude was further reinforced by the November 2010 joint statement issued during President Obama's visit to India that explicitly endorsed India's candidature for the four multilateral export control regimes. India had considered then the NSG membership as being the most important, a feeling that was strengthened when the US circulated a "Food for Thought" paper on the question of Indian NSG membership to the NSG members for consideration and feedback just prior to the June 2011 CG (Consultative Group) and Plenary meeting in Noordwijk, the Netherlands.

However, even though all NSG Plenaries from 2011 onwards continued to discuss "NSG's relationship with India", there was very little forward movement. India, just prior to the 2016 Seoul Plenary applied for the membership. Though, as part of its commitments to the NSG for the September 2008 NSG exemption, India had addressed a communication to the IAEA Director General stating that "India has adhered to the Guidelines and Annexes of the Nuclear Suppliers group", in order to satisfy the NSG requirement that the adherence letter to the IAEA DG must also include a statement to the effect that the adherence communication be published as an

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IAEA INFCIRC (Information Circular). Such a communication was sent to the IAEA only on 9 May 2016, just before India formally applied to the NSG for membership on 10 May 2016.

Pakistan followed on India's footsteps about a week later sending to the IAEA DG an NSG adherence communication on 18 May 2016 and a letter to the NSG Chair applying for membership, on 19 May 2016. Both these applications were sent well ahead of the June 23–24 Seoul NSG Plenary.

Given the special nature of the applications, the first by non-NPT states and that too by states possessing nuclear weapons, the then Chair (of NSG) Ambassador Grossi of Argentina had recommended an extraordinary plenary session to discuss the special characteristics of the applications prior to the regular plenary session.

Ambassador Grossi admitted in an interview, "...we came to Seoul thinking that we could take a decision (on India's membership application) there and then". However, discussion on the two applications was not put on the agenda of the plenary by the incoming NSG chair who usually sets the agenda as per NSG procedural rules. Whatever be the reason, the plenary limited itself to discussions on the issue of "Technical, Legal and Political Aspects of the participation of non-NPT States in the NSG". However, the incoming Chair asked the outgoing Chair "to reach out and see what is possible in the coming months".

The next regular plenary session will be in Switzerland in summer 2017. It is quite possible, according to press reports, that a special plenary may be called later this year around December to decide on the membership applications.

Even before the Seoul Plenary a large number of the 48 Participating Governments (PGs) in the NSG had openly declared their support to India, many of them unconditionally. However, at Seoul, some members while supporting India's admission did feel that some questions needed to be answered. A few others felt that there should be further discussion before a decision is taken.

Thus, at the end of the Seoul Plenary there were three groups of countries, each taking a different stand on India's application: The first, the overwhelming majority, felt that India had fulfilled all the requirements and should be admitted; the second group consisting of a handful of countries, who were in general supportive of India's application but felt that admission of non-NPT States to the NSG should be decided after the group had formulated a common criteria for admission of non-NPT States and only then should they decide on individual

applications. It should not be based on “exception” basis as was done at the time of India’s NSG exemption decision; and finally a third group consisting of a lone member, China, which without rejecting the common criteria requirement had held that NSG has explicit rules in terms of the acceptance of new members. There are five standards concerning not only technology but also political and legal issues. The most important one is that the applicant must be a NPT signatory. This is a requirement, which is not set by China but commonly recognised by the member countries.

It should also be mentioned here that the NSG had nowhere in any public statement referred to NPT membership as a requirement for NSG admission. In all of their communications to the IAEA, the NSG had only referred to “adherence to NPT”, which was a vague and undefined term, as one of the requirements for membership.

Grossi’s mandate was to reconcile the positions of the three groups. As already mentioned, China is the only country insisting on NPT membership as a precondition. If it continues to hold to this position there can be no reconciliatory position that will be acceptable to India.

After the recent arms control consultation between India and China on 13 September, the Chinese foreign ministry issued a statement stating that China supports the notion of a two-step-approach within the Group (NSG) to address the question: at the first stage, to explore and reach an agreement on a non-discriminatory formula applicable to all the non-NPT states, and to proceed to take up country specific membership issues at the second stage.

While it is debatable whether a common criterion acceptable to all the parties can be crafted at all, it is quite possible that Ambassador Grossi, after his extended discussion with NSG members, may come up with a two-step process to address the issues.

Given the nature of India’s relations with NSG members in the past, which include the 2008 NSG exemption, India’s record of full compliance with the exemption requirements, the regular annual discussion at NSG since the 2011 plenary, and the already committed support from the vast majority of NSG members, India’s application will find favour when brought up eventually at a NSG plenary. It is certainly doubtful whether Pakistan can hope for a similar support from the NSG members except, of course, from China.

Even otherwise, the going may not be easy in the case of Pakistan. The 2008 NSG exemption for India was conditioned upon eight specific commitments and actions by India. It is quite likely that the criterion for

membership may contain commitments and actions beyond those then asked for. However, Pakistan may not even be able to satisfy those eight conditions. One of the conditions, is "...its readiness to work with others towards the conclusion of a multilateral Fissile Material Cut off treaty (FMCT)". Pakistan, as a matter of policy, has been blocking any discussion on an FMCT at the Conference on Disarmament for more than decade. It was also the only country (among the 189 UN member states) that voted against a December 2012 UN General Assembly resolution (A/RES/67/53) calling for a "Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices". Significantly, China was one of the few countries abstaining from voting on that resolution.

Former Foreign Secretary Shyam Saran, who was intimately connected with the 2008 NSG exemption, has written (in an op-ed in *The Hindu*, 27 June 2016), "The waiver in 2008 had involved very difficult and complex negotiations on the wording of the decision reconciling the different requirements posed by certain key member countries....It is only if there is a fresh discussion on so-called 'criteria' applicable to all non-NPT applicants that the criteria on the basis of which India has already received a waiver could be reopened. This is a slippery road and India should be careful that in subsequent deliberations the NSG does not revisit the terms and conditions of the India-specific waiver. In case such a threat is perceived, it is better to preserve the substantive gains already obtained through the waiver rather than to push hard for membership".

There is a distinct possibility of a discussion on a common criteria resulting in additional elements to the 2008 NSG exemption criteria. What should be India's strategy then? India should continue to insist that any new condition must be strictly in tune with NSG's objectives.

If China, at any stage, sees the possibility of Indian application gaining strength and not that of Pakistan, it would make sure that the NSG comes up with additional conditions that would be clearly unacceptable to India. Its basic aim is to deny India membership of the NSG; the excuse of Pakistani candidature is only secondary.

Decision Making Process Dictated by Political Interests

Roshan Khanijo

The third largest economy in terms of Purchasing-Power-Parity, India is destined to play a significant role in global affairs. This is especially evident by the progress India has made in its relationship with Global Nuclear Regimes post the Indo-US nuclear deal. As a responsible nuclear power, India is ready to shoulder its responsibilities in the creation and governance of a safe nuclear world order. In this regard, the four Multilateral Export Control Regimes – the Nuclear Suppliers Group (NSG), the Wassenaar Arrangement, the Australia Group (AG), and the Missile Technology Control Regime (MTCR) – could prove to be important platforms for India.

These four ‘Regimes’ were created by a group of nations with the primary objectives of

- 1) conducting nuclear trade for peaceful purposes, and [the] prevention of proliferation of nuclear weapons¹
- 2) promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies²
- 3) the placement of export controls on chemical weapons so that exports do not contribute to the development of Chemical/Biological weapons,³ and
- 4) the non-proliferation of unmanned delivery systems capable of delivering weapons of mass destruction.⁴

These objectives also lie within the framework of India’s vision of a peaceful, global, nuclear world order. Thus, becoming a member of these groups would prove profitable for both parties as India also has a lot to offer towards the creation and management of a peaceful nuclear architecture.

The Central Criteria

The purpose of these organisations is to build a safe and secure global environment. However, this is possible only when countries that fulfil the two major criteria forming the basis of these export control regimes are welcomed into the fold without any hindrance. The first criterion is that those nations which possess the capability to conduct nuclear trade and have the niche technologies required for delivering nuclear weapons, should become members.

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The second criterion is based on the principle of non-proliferation, the primary reason for the creation of all these groups and so paramount for nations desirous to become members to practice this objective.

As far as the first criterion is concerned, India has an advanced space programme. Its Integrated Guided Missile Development Programme (IGMDP) under the DRDO has developed Ballistic/Cruise/Supersonic Missiles. In the Civilian Nuclear Energy Programme, the Department of Atomic Energy (DAE) plans to have an installed nuclear capacity of 20 GWe by the year 2020.⁵ Thus far, India's journey with Pressurised Heavy Water Reactors (PHWR) has been successful, and India is now in a position to offer PHWRs of 220 MWe or 540 MWe capacities, for export at competitive prices in the global market. Furthermore, India is also a competitive supplier with regard to special steels, large size forgings, control instruments, software, other nuclear components, and services.⁶

Secondly, the principle of nuclear non-proliferation is paramount for India, and it practices this objective strictly. As a result, it has an immaculate track record in nuclear non-proliferation. Thus, broadly speaking, India fulfils both these criteria. However, some glitches with regard to its membership to these groups remain, and these need to be analysed in greater detail.

Also, in practical terms, the strength and acceptance of any organisation depends on the twin aspects of 1) the support it receives as far as the compliance of its agendas by a large number of nations are concerned, and 2) how flexible and objective the organisation is in terms of recruiting new members. For the maintenance of international standards of fairness, and in the interests of its own reputation, it is essential for groups that wield such decisive administrative power to diversify, and improve upon their base membership by having maximum participation from those nations who would be an asset (and not a liability) to the group in furthering their objectives.

India's Approach to Nuclear Governance

India's membership of these groups has been the subject of major discourse for quite some time. This is primarily because India has been actively engaging in the global process of creating a strong nuclear architecture. India has adopted a twin policy: on the internal front, it has improved its domestic export control laws by making them compatible with the laws of these regimes; and on the global front, India has tried to actively follow all the international agreements / treaties considered global yardsticks that demonstrate a state's commitment towards the realisation of the dual task of 1) maintaining nuclear safety and security as well as 2) combating international terrorism. Furthermore,

India has been one of the major proponents of the IAEA and in all its policies since its formative stage, and has always emphasised the role of the IAEA as central with regard to the governance of nuclear issues. In fact, India has also signed and ratified most of the treaties such as The Convention on the Physical Protection of Nuclear Material (CPPNM), The International Convention for the Suppression of Acts of Nuclear Terrorism (ICSANT), etc.

India and Export Control Regimes

Nascent Indian efforts to gain membership into these groups saw the light of the day when India became the 35th member of the MTCR. However, despite this first acceptance, the path to entering the other three groups has been beset with roadblocks.

In the past, through a costly oversight, India placed all its energies in its bid to gain membership to the Nuclear Supplier's Group. Instead, India should have used the opportunity to approach all four organisations for membership simultaneously. One key advantage of this strategy would have been the overlapping that takes place in terms of membership within these groups. Gaining membership to one of the groups provides strategic and diplomatic opportunities to gain entry into the other groups as well by collaborating on the mutual interests of friendly member states. Nevertheless, despite the initial roadblocks, the procedure to gain entry into all four groups has started, and it is a matter of time before India is accepted in all these groups. While the current challenges to acquiring membership to these organisations are many, they are not impossible to manoeuvre.

As far as India's domestic compatibility with these organisations is concerned, as on March 2014, India has placed 20 nuclear facilities under the IAEA safeguards.⁷ Moreover, India has stratified and separated its civilian and military facilities with the aim of preventing the cross-feeding of fissile materials. India has also tried to revamp its export control system by creating a Special Chemicals Organisms Material Equipment and Technology (SCOMET) list, which has eight categories. This has been regularly updated to make it harmonious with the guidelines and technology control list of the four control regimes. Despite these efforts, few discrepancies still remain which need to be worked out.

The Australia Group (AG) and the Wassenaar Arrangement have well defined and transparent criteria for membership, and hence membership to these two groups will be relatively easier. Furthermore, since India is already a member of the Biological and Toxins Weapons Convention (BTWC) and the

Chemical Weapons Convention (CWC) - one of the main criteria for the AG too - the process is bound to get easier. However, the only snag in the membership protocol is that the AG also has its control list which differs mildly from the list prepared by other groups. This might cause India slight problems as certain elements of AG's list were left out of India's SCOMET list of 2016.⁸ However, these problems are not insurmountable.

The problems with the WA are also similar. India's SCOMET list is already harmonious with the NSG and MTCR list requirements. What remains is to identify the items which form a part of the WA list, and are not included in the Indian domestic list. For the most part, a collaborative effort between the government and private industry should yield optimal results. However, certain control mechanism issues on more sensitive subjects remain which have direct linkages with the stability and security of the country's internal affairs. One such debatable area has been the inclusion of 'intrusive software' in the WA list. Though the assessment of the updates in the WA control lists with regard to intrusion software reveals that the update does not restrict the export of intrusion software *per se*, policy makers are yet to define intrusion software in a way that does not bring defensive and vulnerability-testing software under export controls.⁹ However, the government is committed to finding a viable solution whereby these issues can be addressed, and soon India may become a member of these two groups.

This brings us to our final and most complicated relationship with group dynamics, namely India and the NSG. The complexities in this process are related to issues of international relations and political power clashes instead of technicalities. In the NSG, there are five key factors that are taken into account on the basis of which the Participation Decision is made for inducting a member. India is in accord with most of these five factors. It should be noted here, that nowhere in NSG's text is it mentioned that all these factors are mandatory for becoming a member. For example, as far as Control List is concerned, the NSG has two control lists: the Trigger List and the Dual-Use List. India has tried to make its SCOMET list compatible with these lists and, logically (on technical basis), this should have been enough to get the membership. However, political power play has caused repeated roadblocks to India's inclusion in this group. A country like China has questioned India's membership on the pretext that India is not a signatory to NPT. This is so despite the fact that the participation decision only states that the requirement is 'adherence to one or more of the NPT, the Treaties of Pelindaba, Rarotonga, Tlatelolco, Bangkok, Semipalatinsk or an equivalent international nuclear non-proliferation agreement'.¹⁰ Moreover, it is not specifically stated anywhere that being a signatory of the NPT is a mandatory clause for entry into the NSG.

Another significant issue is the fact that the NPT already has an export control mechanism in the form of the Zangger Committee (NPT Exporters Committee). The point of the NSG, therefore, should be to provide an alternate platform for nations who have nuclear export capabilities but are reluctant to join the NPT (due to a changed global nuclear environment) as they agree on the need for a secure nuclear architecture. The argument to confine NSG membership to NPT parties is, therefore, counterproductive and reactionary. As nuclear analyst Rajeswari Pillai Rajagopalan rightly points out, “if the prime objective is to retain primacy of the NPT over all nuclear non-proliferation activities, then the NSG mandate would be better delivered through the Zangger Committee, which the Group then dissolved.”¹¹

Also, this caveat has not been sacrosanct in the past as Brazil, Argentina and France became members of NSG even when they were not signatories of the NPT.¹² Thus, this clearly shows that the political interests of China and a few outliers are the true deterrents on the path to India’s membership. The main objectives of all these members should be to basically ‘support the international efforts towards the non-proliferation of weapons of mass destruction and of their delivery vehicles’.¹³ Creating arbitrary roadblocks such as the NSG conundrum is counterproductive to the objective behind the group’s creation. This is particularly evident in the current denial of India’s membership as India has an impeccable record with regard to nuclear non-proliferation. Moreover, it has also been a pioneer in disarmament, and has supported negotiations regarding the Fissile Material Cut-off Treaty (FMCT).

Thus, all things considered, India’s policies fall well in line with global non-proliferation debates, and its inclusion would actually strengthen the bid for the creation of a secure global nuclear environment. Ironically, however, there are countries, which despite being members of the NSG, have been constantly called out for covert nuclear proliferation. These countries have also tried to bypass the NSG guidelines by ‘Grandfathering’ deals to support their nuclear partners in South Asia. Aside from the ethical conundrums this behaviour poses, such constant undercutting of the group’s guidelines depicts an inherent weakness of the system in addressing these transgressions.

Conclusion

In the 21st Century, India is poised to play a major role in global nuclear governance. It is a matter of time when India gains membership of the AG and WA. The question that remains is whether the NSG will continue to allow the political interests of one member (which has indulged in WMD proliferation

in the past, and continues to dishonour UN backed verdicts) to dictate the decision making process of the entire group, or whether the members will unite in upholding the spirit of NSG and induct those nations who are non-proliferators and have taken steps to align with NSG's core principles. Global power play aside, India should also aim to remove any remaining technical glitches by synchronising its SCOMET list to all four control regimes lists.

India already possesses strong domestic export control legislations and a mechanism for their implementation. In the coming years, India will emerge as an exporter of nuclear/space technology and, given its history of championing nuclear non-proliferation and disarmament issues, it is essential that these organisations also benefit from India's prowess - especially since, in terms of the big picture, the interests of both parties could be nurtured through India's membership in these three groups.

Notes

- ¹ Nuclear Suppliers Group (NSG), at <http://www.nsg-online.org/en/guidelines>
- ² The Wassenaar Arrangement, at <http://www.wassenaar.org/>
- ³ The Australia Group (AG), at <http://www.australiagroup.net/en/index.html>
- ⁴ Missile Technology Control Regime (MTCR), at <http://www.mtcr.info/english/index.html>
- ⁵ 'Saga of Atomic Energy in India', Department of Atomic Energy at <http://dae.nic.in/writereaddata/publ/saga/vol2/pdf2/Chapter%20-%202001.pdf>
- ⁶ Statement by S.Banerji at the 54th General Conference, Vienna, 22 September 2010, available at www.dae.gov.in/
- ⁷ 'Agreement between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civil Nuclear Facilities', INFCIRC/754/Add.5, 28 March 2014. Available at, <http://www.iaea.org/Publications/Documents/Infcircs/2014/infcirc754a5.pdf>, pp. 1H2.
- ⁸ Rajeswari Pillai Rajagopalan and Arka Biswas, 'Locating India within the Global Non-Proliferation Architecture: Prospects, Challenges and Opportunities', Observer Research Foundation, Publication, 2016
- ⁹ Ibid.
- ¹⁰ 'Participants', Nuclear Suppliers Group, at <http://www.nuclearsuppliersgroup.org/en/participants1>
- ¹¹ Rajeswari Pillai Rajagopalan and Arka Biswas, 'Locating India within the Global Non-Proliferation Architecture: Prospects, Challenges and Opportunities', Observer Research Foundation, Publication, 2016
- ¹² Brazil and France became NSG members before signing NPT, at <http://www.financialexpress.com/india-news/brazil-france-became-nsg-members-before-signing-npt-govt/330921/>
- ¹³ 'Participants', Nuclear Suppliers Group, at <http://www.nuclearsuppliersgroup.org/en/participants1>



India's entry into the NSG: A Long-winded Process

Arun Vishwanathan*

Multilateral Export Control Regimes comprise of four multilateral groupings, namely the Nuclear Suppliers Group (NSG), Missile Technology Control Regime (MTCR), the Australia Group (AG), and the Wassenaar Arrangement (WA). These groupings essentially function akin to trade cartels by seeking to control the supply of material, technology, and dual use items which can be used for manufacturing nuclear weapons in the case of the NSG; rocket systems and unmanned air vehicles (UAVs) in the case of the MTCR; chemical and biological weapons in the case of the Australia Group (AG); and conventional arms and dual use goods and technologies in the case of the Wassenaar Arrangement (WA).¹

India's relationship with the above multilateral export control regimes has witnessed a remarkable turnaround in recent years. From being the rationale behind the establishment of the NSG and the MTCR, India has joined the MTCR as a member, and its application for membership into the NSG is under discussion amongst the group's members. One of the drivers for this transformation has been the growing strategic partnership between the USA and India which, among other things, has resulted in the liberalisation of American export control regulations with respect to India. The extent of the policy shift towards India becomes apparent from the fact that, post 2009, only 0.3 percent of US exports to India require export licence from the Bureau of Industry and Security (BIS). This is a substantial reduction from the close to 25 percent of US exports which required export licences in the year 2000.²

The September 2001 terrorist attacks on the USA and the Bush administration's efforts to de-hyphenate its relations with India and Pakistan provided fresh impetus to American attempts at widening and deepening its bilateral relationship with India. The November 2001 joint statement by President George W. Bush and Prime Minister Vajpayee paved the way for the January 2004 Next Steps in Strategic Partnership (NSSP) wherein both countries agreed to expand cooperation in the areas of civilian nuclear cooperation, civilian space programs, and high technology trade.³ The 18 July 2005 joint statement by President George W. Bush and Prime Minister Manmohan Singh, which initiated the dialogue for an Indo-US civilian nuclear agreement, heralded American intention to overturn decades of non-proliferation

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policy and signalled US's resolve to mainstream India by making it a part of the global nuclear order.

The July 2005 joint statement and the 2006 Hyde Act resulted in Indian commitment to harmonise its export control legislations, and adhere to the NSG and MTCR Guidelines.⁴ Fast forwarding a few years, India's act of formally submitting its membership application in mid-May 2016 and India's accession to the MTCR as the thirty-fifth member of the grouping on 27 June 2016 signalled that history had come full circle. This was because the NSG was established in 1975, essentially as a response to the May 1974 Indian peaceful nuclear explosion (PNE). Similarly, the public announcement in April 1987 about the establishment of the MTCR was motivated, *inter alia*, by India's satellite launch vehicle flight tests a few years earlier.⁵

Why Export Control Regimes are Important

The multilateral export control regimes are important vehicles to control the supply of materials and technology in the domain that they operate. The largest of these groupings is the Nuclear Suppliers Group (NSG) which has 48 members, with the European Union and the Zangger Committee as Observers. The stranglehold of the NSG on the export of nuclear materials and technologies, including dual-use items, can be gauged from the fact that its members control roughly 80 percent of global uranium reserves and close to 80 percent of the global uranium production.⁶

The situation in the case of the other multilateral export control regimes is not very different. The MTCR's membership with India's accession to the group has grown to thirty-five members. The MTCR members include Western developed countries, with expertise in missile materials and technologies. China, of course, would not be happy with India's accession to the group given that its membership application to join the MTCR has been pending since 2004.⁷

The Australia Group - which seeks to control the spread of chemical and biological weapons - has forty-two participants and one Adherent in Kazakhstan. The Wassenaar Arrangement - which seeks to control transfers of conventional arms and dual-use goods and technologies - has forty-one participating states. In their domains, both these groupings have a majority of countries possessing the technology, material, and expertise as their members, thereby having the ability to control the spread of proscribed technologies, systems, and materials.

Political Overtones

As Dinshaw Mistry states, in the case of the MTCR, the aim of multilateral export control regimes is 'technological containment.' These groupings seek to contain the proliferation of strategic weapons and technologies by denying access to foreign technology which is essential for weapons development.⁸ Thus, the underlying aim of these regimes is to control the spread of technology and material. However, when seen in conjunction with the fact that, in most cases, it is the developed countries which possess these technologies/materials and the access to these technologies, the denial of materials to the developing world reveal the geo-political, geo-economic overtones of the export control regimes and renders their activities problematic.⁹

The narrow geo-political, commercial interests driving export control regimes are best exemplified in the history of the establishment of the NSG. It was the May 1974 Indian test, that resulted in the US initiating a dialogue to establish the London Club (later known as the Nuclear Suppliers Group) in 1975.

In the efforts to set up the NSG, the USA realised that getting France and Western Europe on board was crucial for the group's success. The fact that France was not a NPT signatory did not amount to much at this time. However, in the course of the negotiations, France and Germany sought to secure their narrow national and commercial interests, and opposed any American initiative to safeguard the entire fuel cycle or sensitive technologies, like enrichment and reprocessing technologies.¹⁰

The geo-political drivers of multilateral export controls drove the establishment and subsequent dissolution of the Coordinating Committee (CoCom) at the end of the Cold War. For decades the CoCom had worked to deny technology and materials to Eastern Bloc countries led by the former Soviet Union. With the end of the Cold War, the CoCom was no longer necessary and it was dissolved on 31 March 1994 with the aim of bringing in Russia and other former Eastern Bloc countries into the MTCR and the Wassenaar Agreement. As Brahma Chellaney states, the export control regimes "seek to control the market, not for pricing reasons, but to retain market dominance and strengthen their long-term security and economic interests."¹¹

Political, security, and economic interests were again at the forefront of the American decision to sanction Russian *Glavkosmos* and the Indian Space Research Organisation (ISRO) for the transfer of cryogenic engine and technology for use in the upper stage of satellite launch vehicles. The USA's decision to sanction the two organisations, and pressurising France and Russia

to back out of the cryogenic deal was quite bizarre, given that the US firm General Dynamics had been the first to make the offer to sell the cryogenic engines to India. The American offer was primarily rejected because it did not provide for the transfer of the technology to India.¹² While the USA opposed the transfer of technology on grounds of furthering Indian missile capabilities, the opposition was essentially of a commercial nature - that is, to stymie Indian chances of staking a claim to the lucrative international space launch market.

Given the manner in which the export control regimes operate, Beijing's attempt to delay India's accession to the NSG by tying it to membership of the Nuclear Non-Proliferation Treaty (NPT) should not have come as a surprise. France was courted to become a member of the NSG when it had not yet signed the NPT. Similarly, as G. Balachandran points out, Argentina was admitted as an NSG member in April 1994 once full-scope safeguards (IAEA safeguards on all its nuclear current and future peaceful nuclear facilities) came into force, despite it not having acceded to the NPT.¹³

Why the Membership of the Export Control Regimes is Important

The exemption that India was able to secure from the NSG with the support of the USA, Russia, France, the UK, and other NSG members enabled India to invite major international suppliers (like General Electric, Westinghouse, and Areva) to construct nuclear power plants in various parts of the country. The 2005 Indo-US nuclear agreement and the 2008 NSG exemption also allowed India to import uranium for its nuclear power reactors from various countries, including Canada, Kazakhstan, and Australia and sign civil nuclear co-operation agreements with close to 15 countries.

Given the above, an important question that is asked is: why is the membership of the Nuclear Suppliers Group so important for India? The same is also thrown at India's bid to join the other export control regimes. In the case of the NSG, the answer to this question lies in the modification of the NSG guidelines in 1992 following the groups' plenary meeting at Warsaw. The modification introduced a new set of guidelines (Part II) to control the export of dual-use items, namely items which have both civilian applications but can also be used for building nuclear weapons.¹⁴

In addition, the revised guidelines, also called the Warsaw guidelines, made full-scope safeguards mandatory. This change in essence meant that safeguards had to be in place in all current and future peaceful nuclear activities

if the country wished to import nuclear material and technology from any of the NSG members.¹⁵ As India had nuclear weapons, not all its facilities were under international safeguards. This caused a big problem for the Indian nuclear power sector as it could not import uranium and other items from any of the NSG members.

With a growing nuclear power program, India does not want to be at the wrong end of the stick in case NSG modifies its guidelines in the future. If India is not a member, it will not have any say in the change, and will be consigned to the role of a follower of rules made by others rather than a rule-maker. The situation is similar in the case of the MTCR and the other export control regimes. As a member of the MTCR, India would have a say in the formulation of the rules and guidelines of the group. This is especially important if such modifications were to hamper Indian national or commercial interests. This privilege is not available to an adherent of the grouping who simply applies the guidelines on a national basis, without having any say in the decision-making process.

In addition, membership of the NSG will accord India easy access to the global nuclear market. NSG membership will also accord India 'equal partnership' in R&D in new reactor systems.¹⁶

In the case of the MTCR, the most important benefit of becoming an MTCR member is having market access in the space domain. This essentially translates into MTCR countries including the USA having access to launch their satellite payloads on ISRO's space launch vehicles. Though the MTCR does not make a distinction between members, adherents and non-members, MTCR members like the USA do make such a distinction in their national export control procedures. As a result of becoming a member of the MTCR, India would have access to other important technologies in the domain of avionics, diagnostics, testing and evaluation, which would have been denied to India by the USA and other Western countries had New Delhi not become a member of the MTCR.¹⁷ Similar benefits would accrue to India as and when it joins the Wassenaar Arrangement (WA) as well as the Australia Group (AG).

Despite India's relationship with the multilateral export control regimes undergoing a transformation in recent years, India's entry into the NSG is bound to be a long-winded process. This is essentially due to the fact that India's accession to the NSG is a clear reversal of decades-old thinking on international non-proliferation policy. This will, no doubt, take many countries some time to accept. In addition, India's membership has also become

embroiled in geo-politics. This was apparent with the Chinese linking India's membership to the NSG with membership of the Nuclear Non-Proliferation Treaty (NPT).

NSG's engagement with India began in 2003-04 when India decided to send representatives to NSG Seminars, and played host to a NSG team in April 2004. It is important to remember two things: first, in seeking to join these export control groupings as members, we are embarking on a long-term game which will be shaped, inter alia, by the evolving international geo-political environment and competing commercial interests; secondly, India does not have any alternative but to play this game because remaining out of these regimes will put the country at a serious political, economic, and technological disadvantage.

Notes

- ¹ "About the NSG", *Nuclear Suppliers Group*, available at <http://www.nuclearsuppliersgroup.org/en/about-us>; "Frequently Asked Questions (FAQ)", *Missile Technology Control Regime*, available at <http://mtcr.info/frequently-asked-questions-faqs/>; "The Australia Group: An Introduction", *The Australia Group*, available at <http://www.australiagroup.net/en/introduction.html>; "About Us", *The Wassenaar Arrangement*, 7 July 2016, available at <http://www.wassenaar.org/about-us/>
- ² Ajay Kuntamukkala, "Defence Trade Regulatory Requirements & National Security Reviews of Foreign Investment in the United States," Presentation to IACC Aerospace, Defence & Homeland Security Session, Hogan Lovells, 24 May 2012, available at <https://www.iaccindia.com/suite2012/PRESENTATIONS/AEROSPACE,%20DEFENSE%20&%20HOMELAND/AJAY%20KUNTAMUKKALA%20-%20IACC%20Presentation.ppt>
- ³ "Statement on the Next Steps in Strategic Partnership With India", White House, 12 January 2004, pg. 61, available at <http://www.gpo.gov/fdsys/pkg/WCPD-2004-01-19/pdf/WCPD-2004-01-19-Pg61-2.pdf>
- ⁴ "Joint Statement by President George W. Bush and Prime Minister Manmohan Singh", US Department of State, 18 July 2005, available at <http://2001-2009.state.gov/p/sca/rls/pr/2005/49763.htm>
- ⁵ Dinshaw Mistry, "Technological Containment: The MTCR and Missile Proliferation," *Security Studies*, Vol. 11, no. 3, Spring 2002, pg. 98.
- ⁶ Extrapolated from OECD Nuclear Energy Agency (NEA) and International Atomic Energy Agency (IAEA) (2014), *Uranium 2014: Resources, Production and Demand*, NEA No. 7209, available at <https://www.oecd-nea.org/ndd/pubs/2014/7209-uranium-2014.pdf>
- ⁷ Iran, North Korea, and Pakistan are other countries with fairly advanced missile programmes which remain outside the MTCR. This is because of their history of proliferating missile systems and technologies to other countries in the past.
- ⁸ Dinshaw Mistry, "Technological Containment: The MTCR and Missile Proliferation," *Security Studies*, Vol. 11, no. 3, Spring 2002, pg. 91.
- ⁹ For more information, see also Michal Mastanduno, *Economic Containment: COCOM and the Politics of East-West Trade*, Ithaca: Cornell University Press, 1992; Gary Bertsch, Richard T. Cupitt, and Steven Elliott-Gower, *International Cooperation on Nonproliferation Export Controls: Prospects for the 1990s and Beyond*, Ann Arbor: University of Michigan Press, 1994.

- ¹⁰ William Burr, "A Scheme of 'Control': The United States and the Origins of the Nuclear Suppliers' Group," 1974–1976, *The International History Review*, Vol. 36, no. 2, 2014, pg. 252–276.
- ¹¹ Brahma Chellaney, "An Indian Critique of U.S. Export Controls," *Orbis* Summer 1994, pg. 442H443.
- ¹² Vasudevan Mukunth, "Why Haven't ISRO and the US Signed Their Commercial Space Launch Agreement Yet?" *The Wire*, May 23, 2016, available at <http://thewire.in/37883/why-havent-isro-and-the-us-signed-their-commercial-space-launch-agreement-yet/>; Brahma Chellaney, "An Indian Critique of U.S. Export Controls," *Orbis*, Summer 1994, pg. 447–448.
- ¹³ G. Balachandran, Reshmi Kazi and Kapil Patil, "Membership Expansion in the Nuclear Suppliers Group," *Institute for Defence Studies and Analyses*, Special Feature, 22June2016 available at http://www.idsa.in/specialfeature/membership-nuclear-suppliers-group_gbalachandran_220616
- ¹⁴ International Atomic Energy Agency, "Guidelines for transfers of nuclear-related dual-use equipment, materials, software, and related technology," INFCIRC 254/ Rev.9/ Part 2, 13November 2013, available at <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r9p2.pdf>
- ¹⁵ International Atomic Energy Agency, "Guidelines for Nuclear Transfers," INFCIRC 254/ Rev.12/ Part 1, 13November 2013, available at <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r12p1.pdf>
- ¹⁶ Email conversation on 20 June 2016 with V. Siddhartha, retired Distinguished Scientist DRDO
- ¹⁷ Email conversation on 24 August 2016 with Dr. V. Siddhartha, retired Distinguished Scientist, DRDO



Expose Double Standards - Pursue Pragmatic Steps

Sitakanta Mishra¹

Out of the four multilateral export control regimes, India has recently acquired membership of the Missile Technology Control Regime (MTCR) but its Nuclear Suppliers Group (NSG) candidacy has received more attention. India's application for NSG membership could not pass muster in the group's Seoul plenary session held in June, earlier this year. China's blatant opposition to India's NSG bid, raising questions about the implications at the global level of accommodating a non-NPT member on the basis of 'merit' instead of 'criteria', has been debated widely.

While a majority of NSG members believe that India should be in the group, there are some who are concerned that this would add to legitimising New Delhi's nuclear weapons. It would not be a difficult task to satisfy their apprehensions, but it is the 'political' stand of China - and at the behest of Pakistan - that stands in the way.

The irony, however, is that such objections to India's NSG membership are being advanced by countries whose own non-proliferation track records are tainted. India needs to dispel and expose such double standards even as it simultaneously strives to enter other export control regimes.

India stands for eventual elimination of nuclear weapons and subscribes to a non-discriminatory non-proliferation regime. Despite not being a member of some conventions, India has complied with all multilateral conventions while upgrading its own domestic laws to global standards. Detractors do raise questions regarding India's 'so called' opaque or non-transparent nuclear material safety and security practices. These questions are not borne out by facts. Indian practices are transparent to the extent they need to be. Therefore, India needs to effectively explain that its policies and practices are in complete consonance with the universal non-proliferation goals, while, at the same time, exposing the fallacy behind untenable critiques of India's nuclear policy.

First, India must expose the double standards of the Chinese stand. Despite being an NPT member, China has not only been involved in the supply of nuclear technology and material clandestinely to non-NPT members, but

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has also opposed India's bid for NSG candidature on the ground that India is not a signatory to the NPT. China is the only NPT member country to have supplied nuclear assistance to another non-NPT country, namely Pakistan. According to reports in 1982, as revealed by A. Q Khan, China provided Pakistan 50 kg of weapons-grade uranium as part of a 'broad-ranging, secret nuclear deal' between the two countries. The following year, China reportedly provided Pakistan the complete design for a 25 kt nuclear device (R. Jeffrey Smith and Joby Warrick, *Washington Post*, 13 November 2009). Again in 1995, it was alleged that China sold Pakistan 5,000 ring magnets, while a US intelligence report in 1997 held that 'China was the single most important supplier of equipment and technology for WMDs in the world (Director of Central Intelligence, June 1997). Thus, a member who violates the NPT's true spirit should not assume the role of a 'doorman' to NSG for others.

Second, India must convey to those countries, including China, who vehemently argue that NSG membership should be based on 'objective criteria', that the same was not a norm earlier and that countries like Argentina, Brazil and France have joined NSG before becoming NPT signatories.

Third, and perhaps, most importantly, India must refute both Pakistani and Chinese ridiculous claims that Pakistan has similar credentials for NSG membership as India! Hyphenating Pakistan with India is a laughable matter, given its tarnished proliferation track record. Clubbing Pakistan's NSG bid with that of India is an attempt to legitimise Pakistan's past (and present) clandestine activities and will certainly not be in the interest of world peace.

Fourth, India must advance a global debate on how its inclusion in the export control regimes will benefit the world, and how India will contribute significantly to achieving the objectives of the non-proliferation regimes. Even as India mobilises support of countries like Germany, Russia, USA, etc., it needs to showcase its non-proliferation credentials. The essence of a vibrant and effective NSG lies not only in laying down checks and balances but in assessing the merits of new and aspiring members for the group. Debarring India from entering NSG will be tantamount to keeping a deserving candidate out. Rather, India's case can be used as a model – how it has restrained itself and stuck to the guidelines of a non-proliferation regime despite remaining out of it.

Fifth, though the US has expressed its support for India's NSG bid, it is unlikely to generate consensus among the members in favour of India unless Washington becomes more pro-active, as it was while obtaining the one-time exemption for India in 2008.

Sixth, India's newly acquired MTCR membership (China is not a member of this regime) must be leveraged with a roadmap to prove its worth as a responsible member in such export control regimes. The ill-informed opinion that India should checkmate Chinese entry into MTCR, as a reaction to Beijing's approach to India's entry into NSG, must be firmly put to rest. India, as a member of any international regime has always played a higher role than that dictated by narrow considerations, and it must maintain that principled stand.

Though India's nuclear-related export basket at the moment is limited, its future prospects are enormous. Export potential of existing 220 MW PHWR and its 700 MW scaled up version, and also of the AHWR has been acknowledged. India has emerged as a major manufacturer of Heavy Water and has exported the same to a number of countries, including South Korea, China and the US. In the long run, India aims to effectively participate in the global nuclear commerce by supplying reactor technology, plant construction, maintenance, and services. Thus India's membership of the NSG would be in everyone's interest.

China has been a stumbling block in every bid by India for its legitimate place in the global order, be it the UNSC or, as now, the NSG. It would be too simplistic to explain it away as at the behest of Pakistan - but as part of a bigger aim. That should not stop India from continuing its quest for its place by exposing its double standards and pursuing pragmatic steps to win over all the sceptics.

Some western critics will continue to harp on the argument that it is difficult 'to measure merit'. "Standards are needed to assess merit, whether they are called criteria or not. Whatever merit- or criteria-based approach is pursued for new members ought to reinforce the objectives and purposes of the NSG", (Michael Krepon, *Arms Control Wonk*, 26 June 2016). The pertinent question to ask is whether the interest of NSG will be best served by taking or not taking India onboard.

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