

Chapter 2: India's new foreign policy – the journey from moral non-alignment to the nuclear deal

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Introduction:

'For 20 years no one called me. I had to make all the calls. Since we started talking about a nuclear deal, I have not had to make any calls. Everyone wants to speak to us because Bush wants to do a deal. India has become important.' (MEA official speaking about his postings abroad, anonymous interview, New Delhi 4th of August 2007)

India is showing a new image of itself to the world and the world is recognising that today, India is indeed a country to be reckoned with. 60 years on, Jawaharlal Nehru's dream of India being recognised as a global power has never been closer. India always aspired global recognition, however for almost half a century India was seen as overpopulated, poor and irrelevant. Although the hegemon in the South Asian region and a leader within the Non Aligned Movement this hardly mattered on the wider world stage. India's foreign policy in the first 45 years after independence was very flexible and reactive in nature. The global vision engendered by Nehru was based on moral supremacy and leadership of the developing world as well as economic self sufficiency at home. These moral principles

focused largely on issues of superpower domination and anti-imperialism and were passed on from government to government till the late 1980s. However as the world around India changed these principles slowly became obsolete.

India's foreign policy formulation changed first under the United Front governments in the mid 1990s and then more radically under the BJP led NDA alliance in 1998. The backdrop to the changes were the economic reforms which had been started in 1991. India was opening up to the world and economic growth rather than self sufficiency became the major driver for international relations.

The realisation that foreign relations, energy policy and economic growth are linked has led to a new foreign policy formulation. New Delhi's priority today is to protect India's economic growth and foreign policy has been harnessed to create linkages with those countries that could provide energy security. This is because India sees that the only way it can maintain its' current position on the global scale is through its growth.

But India's new foreign policy formulation goes beyond securing oil and gas resources. Over the last few years India has been negotiating a nuclear deal with the US. This deal's main objectives are to help India's civilian nuclear power expansion as well as increasing business between the US and India. However this agreement goes well beyond energy security and economic growth. The most pertinent result of these negotiations is India's recognition as a nuclear weapon's state. With this recognition India achieves a large milestone towards global power status and fulfils Nehru's vision, albeit in a manner which could have never been imagined by India's first prime minister.

This chapter aims to draw together the nexus of energy, economic growth and the quest for global power status. It will give a brief background to India's foreign policy formulation before the economic reforms as well as how matters changed with the UJ and the NDA governments. It will then analyse the role of energy in India's new foreign policy formulation, touching briefly on pipeline diplomacy before analysing the current negotiations around the nuclear deal.

The construction of India's foreign Policy – global power status on the basis of moral standing

India's foreign policy evolved as a "dual" pattern, encompassing a global as well as a regional role. The two roles were run on a very different basis, as relations with India's neighbours were conducted on a much more realistic policy course as opposed to the moralistic international policy. The regional dimension was based on the fact that India was the hegemon in the region and would do everything to remain so.

The Non Aligned Movement (NAM) was created out of the desire to orient India's foreign policy towards the group of newly decolonized states, hoping to create a larger area of peace by fighting common dangers of imperialism and racialism together.¹ Nehru wanted India to be the leader of the developing world, in this way carving out a global role for the country. The principle of India's leadership was to be based on moral rather than economic power. India's relations with the superpowers during the cold war were difficult as its non aligned status was never really accepted by the US who saw India as being in the Soviet camp. India's desire for economic self sufficiency also went against the grain of the concept of free market economy, which was being pushed by the western powers. On the other hand

relations with the Soviet Union were cordial with substantial trade and barter trade underlying the relationship. However India never subscribed to the communist world's ideology, trying to combine a socialist economy with a democratic system at home. India refused to be apart of any defence pact or to take sides against either the western powers or the communist bloc.

Nehru believed that these idealistic broad concepts used in global policy formulation could also be used at the "micro-level", subject to some minor adjustments. Later, after Nehru's death this was dropped, making place for a more regional, realistic and forceful policy first under Indira Gandhi and later under Rajiv Gandhi, especially with regard to the South Asian region.

The main incident, which established India as a regional power, was the creation of Bangladesh. 1971 was crucial for India's position in the region. The flood of refugees that poured into India had severe effects on the economy and on India's social structure. Out of economic and strategic necessity India trained, armed and then gave combat support to the Bangladeshi refugees.²

India's regional priority has been to disallow the destabilisation of any neighbouring states by any internal or external forces. This includes the monitoring of ethnic conflicts on the borders in the North East, Bhutan or Sri Lanka, and the promotion of regional co-operation. There are of course many obstacles to regional co-operation, paramount India's size and position as a hegemon, but it is also understood to be the only possibility for political and economic stability in the region. Nevertheless the regional part of the policy formulation was always rather ill defined and generally "reactive" in nature. The main emphasis was on establishing a security zone against possible threats from China.

The Chinese factor has been a sore point in India's foreign relations. Although China is a neighbour, it cannot be counted as part of the South Asian region, geographically set apart by the Himalayan mountain range. India and China are natural rivals and the relationship has been problematic over the years including border issues in Kashmir, India's North East, the status of Tibet and Sikkim. Nehru's political understanding involved advocating a policy of friendship, avoiding the isolation of newly communist China.³ In this way he hoped to establish a "normal" world order where Indo-Chinese co-operation would lead the newly independent countries of the third world.⁴ Throughout this time India upheld China's issues at the UN and recognised Taiwan as part of China. When in 1950 China asserted its authority in Tibet, Nehru exercised restraint. In 1954 the two countries signed an agreement on Tibet which proclaimed the "Panchsheel" doctrine, the five principles of peaceful coexistence.⁵

The Indian humiliation of Oct./Nov. 1962 at the hand of the Chinese armed forces, made the nation realise that its relatively unarmed foreign policy towards China had failed to provide the necessary security and that idealism was no substitute for realism.⁶ India felt it was threatened by both its immediate neighbours, Pakistan and China, neither of which subscribed to non-alignment, and therefore a modern defence force had become necessary.

This section serves as a reminder how India's global and regional foreign policies were formulated prior to the economic reforms and to underline how until the early 1990s India's international foreign policy was idealistically oriented. India's national interest was seen both regionally and globally in solely in political and ideological terms with hardly any economic component.

The changes after the economic reforms and under the BJP: Global power status – the realist way

The 1991 economic reforms saw the birth for a new role for international economic and trade relations. India suddenly had to engage with the post cold war world and reassess its foreign policy priorities. The opening up the economy to international players also meant that foreign relations had an economic dimension and trade became a foreign policy tool. Leaving *swadeshi*, economic self-sufficiency behind and engaging in international trade was India's new way forward. The Congress government under Narasimha Rao initiated economic reforms, however worried that the economic pain of free trade and privatisation would hit the poorer section of India's society and increase the already large disparities.

After the Congress lost power, the United Front governments under Deve Gowda and I.K. Gujral started to focus more on foreign policy and foreign relations. In part this was due to India coming to term with its first coalition government where consensus on domestic affairs was not always forthcoming. The I.K. Gujral peace moves towards Pakistan were a direct result of this - as were Deve Gowda's economic interest in South East Asia and the *'Look East'* policy with a clear vision for India's North Eastern states.

The 'look East' policy was a part of India's re-assessment of its role in the wider region, for the first time looking at Southeast Asia as a neighbour which mattered politically and economically. As India was looking for new markets and relations with the US still had not warmed up, a strategic decision to focus on Southeast Asia was taken. Closer cooperation with ASEAN was seen as a new priority, as it became increasingly clear that due to frosty relations with the neighbouring countries, SAARC was not going to be a huge success in terms of multi-lateral trade.

The BJP's vision was one of a multi-polar world⁷ in which economic relations were going to be crucial. Regional policy became of prime importance, especially with regard to improving trade and improving the situation in India's border states. In part the BJP's moves towards Pakistan have to be seen in this light, but more so its' increase interest in the North East⁸, which included starting a peace process with various insurgency groups as well as improving relations with Myanmar. There seems to have been an inherent understanding that the region could not be developed without international cooperation across the border.

The BJP's foreign policy priorities have not been that different to that of Congress – i.e. to be and remain the regional hegemon with global power aspirations. However the BJP realised that the post cold war world needed a different approach based on trade and not on Nehruvian morality and righteousness. The BJP, unlike previous Congress governments also saw that there are direct links between foreign policy formulation and domestic policy, especially in the economic realm.

Despite the fact that the BJP had campaigned on an anti economic reforms ticket, they continued and intensified the reforms after forming their coalition government called the National Democratic Alliance (NDA). India's opening up saw the rise of multi-national corporations, which resulted high growth with limited infrastructural development. The businesses – mainly multinationals, but also some large Indian firms gained better access to the Indian government in the 90s. Their agenda was focused on increased open markets and more trade, internationally as well as regionally. Indian businesses have always been aware that Indo-Pakistani and Indo-Chinese trade could be huge. As a result trade lobbies formed and have become more powerful in the political realm in Delhi in order to influence the decision making process. During the Kargil war, there were reports that businesses in India

and outside were lobbying for a quick solution so as to not lose the multinationals and so that trade would not be lost either. Consequently since the economic reforms, businesses have become a new type of political actors or are at the very least influencing political decisions.

As a part of this new strategy, relations with the US, Israel and Myanmar were all revived. These were countries India aspired to keep away from for various reasons: the US for its imperialistic global bullying strategy, Israel for its war against the Palestinians and Myanmar for its undemocratic government in light of the 1990 elections. The 9/11 war on terror changed relations with the US for good. India saw in this an opportunity to ally itself with the US and portray the Kashmir problem as a part of the war on terror. The US was seen as a powerful economic ally holding the purse strings of various international funds. An agreement with Israel on the same basis meant that India could buy arms it would never had access to before. Peace or a dialogue about peace with Pakistan was seen as essential. Peace meant that India would finally be seen as an economically safe region for international investment. It also meant that the BJP would then be able to focus on internal changes.

The government finally decided to tackle the China factor for the first time. India has for decades seen itself threatened militarily and economically by China. Disputed border issues have not been tackled as successive governments feared opening up 'Pandora's box'. However with China's increasing economic might in the region, India needed to improve relations and increase trade quickly. Finally the recognition of Tibet was exchanged against the recognition of Sikkim, a significant step in the move away from moralistic foreign policy vis-à-vis a neighbour.

These changes have [...] to be understood as a larger re-orientation that has taken place since the end of the Cold War⁹ where the US has come to dominate international politics. The Nuclear threshold was crossed by the BJP with the tests in May 1998 and showed the world that India would take on a more realist and pragmatic orientation. It was defended to Parliament with the statement: 'it is India's due, the right of one sixth of human kind'.¹⁰ The gamble paid off as it brought a closer engagement with the US.¹¹

What this section wants to emphasize is that the aims of all governments, including that of the BJP¹², have been the same as Nehru's – to make India a major world power. India has always been suspicious of US neo-imperialist designs, however engagement with the US was seen as a key element in defining India's future. The NDA was able to make the link between improved economic growth, willingness to reform and improved international standing.

Consequently since the 1991 reforms, but especially under the NDA government India's foreign policy formulation has been conducted on the basis of trade and power priorities as a mechanism to hegemony. At a larger level, this move fits in with globalisation and the increasing power of business in government policy formulation, not only in Asia but in the world at large.

The current UDA government – borrowing from the BJP

In May 2005 The BJP led NDA alliance lost the elections to the Congress led UDA coalition. Immediately after the elections the Indian stock markets dipped. There was a general sense of unease with regard to India's new government's external support by the communist party and the fear that both domestic and foreign economic policy would

change. However within a few months it became clear that not only general economic policy would remain very much on the same track as the BJP had chartered, but also that the new government would further build on the new foreign policy relations which had been developed. This was particularly but not exclusively the case for relations with the US and Myanmar. Energy security soon became a key government concept with a visionary Mani Shankar Aiyar at the helm of the petroleum ministry.

The issue of energy as a pivotal point: pipeline diplomacy

The geopolitics of energy has become of increasing importance as developing countries need to secure energy supplies in order to maintain economic growth rates. The volatility of the oil market has had severe repercussions on developing countries as price hikes lead to less competitive productivity and an increase in trade deficits. This is particularly a risk for India and China who do not meet their own needs with either domestic oil or gas supplies. As a result relations with states who can provide the well needed gas and oil is seen as central to India's new foreign policy. But it is not only the hydro-carbon rich states which are of importance, as any pipeline would have to cross India's immediate neighbours with whom relations have been at best cordial, and often quite a lot worse. Both on India's eastern flank relations with Bangladesh need to be improved as well as on the western border where peace with Pakistan needs to be secured in order for the energy supply to be secure and uninterrupted. So the issue of energy goes beyond traditional trade and economic relations and has wide-ranging effects on economic growth, peace negotiations and regional power status. The need for energy also ties in closely with the issues linked with the globalisation of these countries as multinational energy corporations become the true players on the Asian

markets with economic and political consequences which cannot be entirely foreseen at this stage.

India's current energy needs

As mentioned above, India's current energy needs are largely dictated by the rise in economic growth. To sustain such growth (estimated between 7% and 8% pa, with the aim of increasing it to 10% pa) India has to secure energy resources quickly. The energy needs are also linked to India's population explosion.¹³ India's growing population is expected to reach 1180 million by 2010, 1362 million by 2020 and 1573 million by 2030 – i.e. a more than 50% increase in less than 30 years. The introductory chapter has given an overview of India's projected energy needs. India has stepped up the exploration for natural gas within its own borders; however it is becoming increasingly clear that large amounts of gas will need to be imported from abroad.¹⁴

In February 2005 the Indian government approved plans for talks with six countries on the construction of gas pipelines that would pass through Iran, Afghanistan, Pakistan, Myanmar, Bangladesh and Turkmenistan. This new 'pipeline diplomacy' was seen as a key foreign policy priority as India's energy requirements are rising quickly. The Petroleum and Natural Gas Ministry was permitted to hold talks with the above mentioned countries to secure natural gas supplies. India produces only half the natural gas it uses and it imports 70 per cent of its crude oil.¹⁵ Then Petroleum and Natural Gas Minister Mani Shankar Aiyar confirmed that three pipeline projects were being discussed, including a pipeline running from Iran through Pakistan, one from Turkmenistan through Pakistan and Afghanistan, and a third from Myanmar (originally planned through Bangladesh). All transit countries would be paid high transit fees, making the projects worthwhile for them.

As will be discussed in the other chapters of this book, the pipelines have had some difficulties. Currently only the IPI remains a realistic option, as Myanmar has signed a pipeline deal with China and the security situation makes TAPI rather unrealistic. But it is important to note that due to these pipeline negotiations India's relations with the concerned countries has improved dramatically. The peace negotiations with Pakistan are seen as strengthened by the IPI talks, relations with Bangladesh, although strained for decades are better with the interim government than in decades, relations with Iran, Myanmar and Central Asia are stronger than before.

The issue of energy as a pivotal point: the nuclear deal

However oil and gas are not the only energy priorities India is focusing on. The Kirit Parikh report focusing on energy security was completed at the end of 2005 emphasized the need for India to diversify its energy resources and to focus on development in all fields, including the nuclear field.

At present, the Atomic Energy Commission (AEC) in India is only producing about 3000 MWs of energy. Despite toiling with this effort for almost 50 years, this current output still only represents less than 3% of its total power.¹⁶ Although the AEC does estimate that nuclear sources would generate some 63,000 MWs by 2032, a study of the organization's past record shows that this target is unreliable and unrealistic. Nevertheless, nuclear energy provided a source of clean energy for the heavily polluting India. In fact, India was no stranger to nuclear facilities. In 1956, it had the first nuclear reactor in Asia outside the USSR.¹⁷ However, with the 3 decades of sanctions against it, India lost out on key developments in the international nuclear industry.

The nuclear energy option is seen by India as a long term option as the highly technological development will take years to expand. India also realised that its indigenous programme would need western technology and more fissile material in order to be able to grow at a reasonable rate. Today the expectation is that at current growth rates and if the private sector is involved, nuclear energy could possibly provide 6% of India's energy consumption. This very low rate and the high expense begs the question why India would want to spend any time, money and energy to develop this sector.

The role of 'the nuclear' in global power status however is central to being recognised as a power to be reckoned with. Despite India's nuclear tests in 1974 and 1998, such recognition had always eluded India. Since India was not a signatory to the NPT, it was effectively seen as a nuclear pariah who suffered sanctions in retaliation for its 'unauthorised' and unilateral actions. In fact Indo-US relations suffered tremendously after the 1998 tests. Manmohan Singh has claimed that "this political impasse proved to be a thorn stuck in the throat of the relationship of both countries".¹⁸ In order to gain global recognition India needed to be recognised as a legitimate nuclear weapons state and in order to do this, relations with the US needed to be mended.

India's quest for a civilian nuclear cooperation agreement with the US has to be seen in light of India's quest not so much for energy and economic development, but a recognised role on the global stage of politics. This does not necessarily gel with the US's priorities or the US's reasoning on the deal, which hopes to bring most of India's nuclear facilities under international control in as short a time as possible. Nicholas Burns, US undersecretary of state for political affairs clearly stated end of July this year that he expected 95% of India's nuclear facilities to be inspected by the IAEA within 25 years.¹⁹ There is a feeling that India needs to

be controlled and reigned in. The discrepancy of understanding between the two countries could in the long run lead to major problems.

Background

Besides the obvious benefits to their energy and nuclear industries, India also saw the civilian nuclear agreement as an opportunity to develop close ties with US. To India, closer ties with the US suited its changing strategic security policies given the rapidly changing geopolitical situation in the region and China's economic rise. Furthermore, cooperation with the US promised access to nuclear fuel and would place it among the elite group of recognized nuclear weapons states. A series of talks in 2000 between then US Deputy Secretary of State Strobe Talbott and then Indian Foreign Minister Jaswant Singh focused on a series of issues. However, any discussions about the nuclear issues between both countries faced a stalemate as the US insisted on a cap on India's fissile nuclear program.²⁰

It was thus left to a shift in US foreign policy to make the breakthrough. Attempts by the first Bush administration to achieve any significant progress proved futile. The problem lay in the presence of South Asian expertise in this administration who had a fixed mindset towards the region. In the nuclear cooperation context, these officials argued that any exception made for India had to be granted to Pakistan also. Given the proliferation controversy surrounding A.Q. Khan, the father of Pakistan's nuclear bomb and his proliferation network, any considerations of encouraging nuclear activity in Pakistan were immediately ruled out. Moreover, the administration was also littered with non-proliferation experts and advocates of the NPT. Even with such opposition, the strongest advocacy for any such cooperation between the two countries still came from within the US. This illustrated list of supporters included Stephen Cohen, Joseph Nye, Henry Kissinger and

William Perry.²¹ It was the arrival of the second Bush administration in 2004 that brought along with it a new foreign policy team, which looked at Asia more imaginatively.²² This team recognized the emerging prowess of China's economic and strategic strengths. It also recognized that India had become too important a player in the Asian region and on the global stage for the US to continue to ignore it. India, it thought, could be a counter to the growing Chinese threat in Asia. After all, it made perfect ideological sense for the US as the oldest democracy in the world to partner India, the world's largest democracy.

Besides pitting it as an Asian balance of power, the US was also cautious of the growing relations between India and Iran, especially in light of closer cooperation between Russia, China, India and Iran between the late 1990s and 2005. The pipeline project proved to be a warning signal to the US foreign policy officials. They knew that if they did not get involved, relations between New Delhi and Tehran would deepen and this would be a threat to the US security interests. The US also saw India's presence outside the global nonproliferation architecture as a potential threat to its strategic interests, given India's vast and growing indigenous capabilities. This is despite the fact that the Indian government had established a rigorous export controls system and possessed an exemplary record of nonproliferation even though it was not a part of the international regime. The US did not feel that there were any assurances that these measures would be enforced consistently or effectively in perpetuity. From the Pakistani examples, the US had learnt that nonproliferation ultimately derives from inequalities between private and collective costs and benefits. Thus, in the event of high direct costs, the Bush administration felt that India could default.²³ Indeed, economics did play a considerable part in the formulation of foreign policy in this case. Perhaps the least publicized benefit to the US deriving from the deal would be the direct access to the Indian civilian nuclear market for its nuclear technology companies. The promise of a large portion

of the billion-dollar pie enticed the Bush administration and their political donors, many of who were energy companies. This would also help rectify the balance of trade deficit between the US and India.

Knowing full well that the improvement of Indo-US relations would be the defining success of the Bush term in office, the administration pursued achieving this objective aggressively. Washington also expected that transformed bilateral relations will facilitate the expansion of Indian power in a manner that ultimately will advance America's own global interests with respect to defeating terrorism, promoting democracy worldwide, contributing towards counter proliferation activities in the Indian Ocean and preserving a stable balance of power in Asia over the long term.²⁴

The nuclear deal has raised much controversy within both the US and India and also in international circles. This is mainly owing to the fact that India is not a signatory to the Non-Proliferation Treaty (NPT) and should not be allowed access to sources of nuclear fuel. However, under the agreement made two years ago, President Bush made a commitment to Prime Minister Manmohan Singh that the US would favour India in changing its nonproliferation and export control laws and policies also to garner their own domestic support in Washington. In return, the US wanted India to prove and to be accepted globally as a responsible owner of nuclear weapons, this despite India being a non-signatory to the NPT.²⁵ In order to achieve this, India was asked to separate its civilian and military nuclear programs. In addition, it also agreed to place its civilian nuclear program under an international safeguards system as well as to support a variety of global non-proliferation initiatives.²⁶ Further, India also agreed to extend its moratorium on nuclear testing. In

committing itself to all of the above, India would assume the same responsibilities and practices as the acknowledged nuclear weapons states.

The difference between the Indian and the US perception

The biggest problem with the nuclear deal is the differences between the Indian and the US perception of what the deal means and what it aims to achieve. The following two lists show how both India and the US come from very different, possibly irreconcilable vantage points:

The US wants to

- Bring India into the NPT framework
- Increased trade: the balance of trade deficit
- Use India as a counterweight to China's rise (Asian balance of power)
- Get Indian support for increased democratisation of the middle East
- Get Indian support in the anti Iran campaign

The US will also get access to the Indian nuclear market which will help revive the US nuclear industry which has been dormant since the three miles accident in 1979. "The US will also use the Indian human resource and India's scientific reactors and recycle them back to India."²⁷ Prasad in this article also believes that the US feels that sanctions did not work as India continued with the fast breeder reactor programme. The deal is a way of controlling, regulating and harnessing India.

India on the other hand wants:

- Recognition as a responsible nuclear weapons state
- Access to fissile material and latest nuclear technology
- US support with regard to Pakistan and the China-Pakistan nexus (Asian balance of power)
- Maintain its sovereignty in all aspects of domestic and foreign policy formulation.

The meetings between the US administration and the Indian government did not centre only on the actual deal, such as the one between Cheney and M K Narayan on the 22nd of July 2007. This points to the fact that the nuclear deal is part of a much larger agreement framework. The Indian press has been speculating about a security partnership, which possibly contravenes the sovereignty issue listed above.²⁸

Current Standing

On 3rd August 2007, the US and India unveiled the much awaited text of their agreed nuclear deal. The details of the 123 Agreement however revealed the extent of India's compromise with US laws in exchange for nuclear energy for civilian purposes. Both sides had reached a historic milestone in finalizing terms of the nuclear deal on 20th July 2007, marking the culmination of their two years of negotiation. Talks began in Washington on 17th July and were supposed to have lasted only 2 days but were extended for another day after failing to finalize some technical aspects of the operational deal.²⁹ The agreement is to be valid for 40 years and will stay in force for 2 additional periods of 10 years each. Each side can end the

deal with 6 months notice at the end of 40 years or any subsequent 10 year period. Either side can terminate the deal mid term by giving a year's notice.

Now India and US have to woo the Nuclear Suppliers Group to change their guidelines and to reach an agreement with IAEA on their safeguards. If these difficult obstacles are overcome, then President Bush has to ensure that Congress rule in favour of the deal before any implementation can be carried out.

Terms of Negotiation

The US has agreed in principle to provide nuclear technology and fuel to India for civilian use. In December 2006 the US Congress had approved a landmark ruling, the Hyde Act, which allowed US export of civilian nuclear fuel and technology for the first time in 30 years. India gets to have a civilian and military nuclear programme without being a signatory to the NPT agreement, this ending the 'nuclear apartheid' against India.³⁰

The detail revealed by the 123 Agreement on the 3rd of July includes the following points³¹:

- The agreement will not to hinder or interfere with India's nuclear program for military purposes.
- US will help India negotiate with the IAEA for an India-specific fuel supply agreement.
- Washington will support New Delhi develop strategic reserves of nuclear fuel to guard against future disruption of supply.

- In case of disruption, the US and India will jointly convene a group of friendly supplier countries to include nations like Russia, France and the UK to pursue such measures to restore fuel supply.
- Both the countries agree to facilitate nuclear trade between themselves in the interest of respective industries and consumers.
- India and the US agree to transfer nuclear material, non-nuclear material, equipment and components.
- Any special fissionable material transferred under the agreement shall be low enriched uranium.
- Low enriched uranium can be transferred for use as fuel in reactor experiments and in reactors for conversion or fabrication.
- The ambit of the deal includes research, development, design, construction, operation, maintenance and use of nuclear reactors, reactor experiments and decommissioning.
- India can develop strategic reserve of nuclear fuel to guard against any disruption of supply over the lifetime of its reactors.
- Agreement provides for consultations on the circumstances, including changed security environment, before termination of the nuclear cooperation.
- Provision for one-year notice period before termination of the agreement.

- The US to engage Nuclear Suppliers Group to help India obtain full access to the international fuel market, including reliable, uninterrupted and continual access to fuel supplies from firms in several nations.
- The US will have the right to seek return of nuclear fuel and technology.
- In case of return, Washington will compensate New Delhi promptly for the "fair market value thereof" and the costs incurred as a consequence of such removal.
- Both the countries to set up a Joint Committee for implementation of the civil nuclear agreement and development of further cooperation in this field.
- The agreement grants prior consent to reprocess spent fuel.
- Sensitive nuclear technology, nuclear facilities and major critical components can be transferred after amendment to the agreement.
- India will establish a new national facility dedicated to reprocessing safeguarded nuclear material under IAEA safeguards.
- Nuclear material and equipment transferred to India by the US would be subject to safeguards in perpetuity.

The Issues

During the past 2 years, the deal was heavily scrutinized by all quarters. As a result many issues, both major and trivial, concerning aspects of the deal were raised.

One source of agitation for critics of the deal has been its financing. There has been no mention yet of any details of proposed financing for the project. The government has also failed to address the concerns of reactor safety and waste disposal.

The greatest cause of concern however to Indian policy-makers is the effect this deal would have on the country's existing regime. Problems which remain are the fact that the agreement is governed by US law and the right of return of all materials. Article 2.1 makes it clear that Hyde act and other US laws, not international law will prevail: 'Each party shall implement this agreement in accordance with its respective applicable treaties, national laws, regulations and licence requirements concerning the use of nuclear energy for peaceful purposes.'

National security remains a priority of the Indian government and to commit to a moratorium on conducting further nuclear tests is seen as a compromise of their national sovereignty and national security. Since it is unlikely that the US will make an exception for India, New Delhi could face another round of sanctions should they conduct further testing in accordance with US laws. Although there was no clear mention of consequences of an Indian nuclear test, the agreement does indicate that either party could choose to terminate the deal prior to its expiration resulting from either party's serious concern about a changed security environment or as a response to similar actions by other states which could impact national security.

Critics argue that directly or otherwise, this clause effectively ends India's nuclear testing possibilities if it wants to avoid the termination of the pact. Opposition party, the BJP, led by senior leader Yashwant Sinha, has illustrated the main flaw of the agreement. According to him, the text of the agreement does state that issues not covered in it will be subject to

national laws. This, he adds, refers to the Hyde Act, which was passed in December of 2006. The Act provides the US President with the discretionary powers to terminate the civil nuclear cooperation if India conducts a nuclear test.³² In fact the US can scrap the agreement at will (article 14(2) in an unequal deal as India's international safeguards are in perpetuity: 'The party seeking termination has the right to cease further cooperation under this agreement if it determines that a mutually acceptable resolution of outstanding issues has not been possible or cannot be achieved through consultations.' This puts India at the mercy of the supplier who holds all the leverage.³³

Mr. Sinha concludes that the fundamental flaw lies in the fact that the US has provided unenforceable commitments in lieu of enforceable commitments from India. In addition to this, many in India saw the condition that US will continue to support their country's sourcing for fuel even after the deal is concluded as a continuous support from the Americans. However, the agreement provided a clause that allows the party seeking termination of the deal to cease further cooperation under the agreement if it deems that a mutually acceptable resolution of outstanding issues cannot be achieved.

The expectation of India to join in international efforts to sanction and contain Iran's search for uranium enrichment technology is also a difficult diplomatic and economic decision for New Delhi to make. Although not mentioned explicitly, Nicholas Burns and others from the US team have clearly stated that they are 'counselling India' not to engage with Iran.³⁴ India did join the UN Security Council's resolutions to constrain Iran's nuclear quest, but the country is still dependent on the Iranians for oil and gas. However the reality of an Iran-Pakistan-India oil pipeline could be affected by the US anti-Iran policy

In relation to the requirement of reaching an agreement with the IAEA in perpetuity, India has been reluctant unless it is assured access to nuclear materials in perpetuity. However, India's attempts at negotiating this clause with the IAEA seem to be futile as the IAEA is a regulatory and not policy-making body.

The obligation of the US President to annually certify that India is conforming to the needs of the US legislation is viewed by many as an intrusion to its sovereignty. This again is specified under the Hyde act. Furthermore with the issue of continuity of the American leadership comes the question of consistency of its policy towards India. Adding to that, the subjectivity of such assessment built upon individual judgement, makes the uncertainty of the outcome even more obvious. Nevertheless, such concerns may be exaggerated. As President Bush has already proven through alternate language by agreeing to an "annual assessment" rather than a "certification", the US government can innovatively work their way around such small obstacles.

Although Manmohan Singh's administration heralded the deal as a negotiation victory for New Delhi, this was a rather premature analysis. Upon closer evaluation, terms of the agreement show that the US has very cleverly hidden key clauses in it that places India in an unfavourable position. The general sense of satisfaction in India surrounding the text of the 123 is derived from the agreement to petty details that New Delhi had been pushing for.

The major component of the deal that has been much of the cause of a triumphant mood in New Delhi is regarding the reprocessing of spent fuel. Quoted in the Asian Age, A.N Prasad, a former director of the Bhabha Atomic Research Centre had said that 'India's three stage nuclear programme, which is geared towards harnessing thorium, is a prized jewel that cannot be sacrificed at the altar of politics.' As mentioned earlier, New Delhi had been

pushing for an allowance for transfer of reprocessing or enrichment technology. Initial concerns from Washington were that this would allow India to divert nuclear material to its military program. However, under the condition that India's reprocessing facility be placed under special IAEA safeguards, the allowance has been made in the 123 for her to reprocess spent fuel.³⁵ However Prasad makes the point that setting up a dedicated reprocessing plant will not make matters any better for the fast breed reactor.³⁶

Given the reality of the agreement on the ground and the different priorities of both governments it has to be remembered in New Delhi that this is not a two way deal: 'India is not selling something of critical interest to America in return for nuclear fuel or nuclear technology. India is a buyer. It is a one way transaction'³⁷ This of course makes the situation an unequal one, one which is heavily contested both by the opposition and the government supporting left parties.

The opposition and the left parties

The BJP has argued that the 123 agreement compromises India's nuclear weapons programme and asked the government to put the next steps of the deal on hold. 'The BJP is of the clear view that this agreement is an assault on our nuclear sovereignty and our foreign policy options. We are therefore, unable to accept this agreement as finalized.'³⁸ The controversy rages principally around the lack of definition of the word 'action' which the BJP feels could be interpreted widely by the US to include anything it perceives not to be in its national interest, including for example India's ties with Iran.

The Left parties at first decided to consult scientists first and come back with a reaction a few days later. They have now publicly demanded that the deal be rejected and that it be brought to parliament for review. They have also demanded the constitution be altered to

allow international deals to be reviewed in parliament so that every MP can vote for it and suggest amendments. Manmohan Singh has rejected these calls saying that the deal has been agreed and it will not be brought back to the study table.³⁹

Reaction in the US

Despite the overwhelming political support the nuclear deal has had in Washington, a large segment of the US press has been critical. The main argument lies in the fact that India is not a signatory to the NPT and is being rewarded for bad behaviour and that this is bad news when dealing with countries such as Iran or North Korea.⁴⁰ The Economist argues that although China's increasing strength is at the heart of the deal, it will be decades before China represents a threat big enough for the US to make such a concession to India and that breaking the non-proliferation regime is both dangerous and unnecessary.⁴¹ The press does admit that the US will gain economically as India will engage in military equipment and possibly nuclear trade, but it also warns that the US should not expect to buy India's undivided loyalty.

Reaction in Pakistan

Relations between India and Pakistan could be profoundly altered as India is seen as being given preferential treatment despite Pakistan's cooperation with the US in the war on terror. In fact Pakistan's first reaction to the announcement was to warn the US of a potential arms race.⁴² Strategic stability is threatened as India will be able through the nuclear deal to develop larger amounts of fissile material for nuclear weapons. The Bush administration has dismissed Pakistan's claims as India's reprocessing of US nuclear fuel would take place in a separate facility under IAEA safeguards. It is possible that the deal will help Pakistan to seek a closer alliance with China to balance the new geopolitical reality in South Asia.

Effect on China

There has been a hardening on the Border dispute in Arunachal Pradesh. China is a major player in the nuclear suppliers group and is worried how the deal will impact on them.⁴³

China is further worried by the quadrilateral for democracy which includes India, the US, Australia and Japan and which it sees as anti-Chinese. The quadrilateral is due to hold naval exercises in the Bay of Bengal in the first week of September 2007 with Singapore. Nuclear submarines, aircraft carriers, destroyers and frigates will participate and it is coined the largest exercise since the end of the cold war.⁴⁴

Conclusion

As the quote at the beginning of the paper illustrates, the nuclear deal is a central facet in India's new foreign policy formulation. Officials from various ministries in Delhi who were interviewed last week explained that the administration is aware of both the advantages and the drawbacks of the agreement. Greater cooperation with the US will not only bring in big business, it will change the geopolitical balance in Asia. India will have to be guarded not to do the US's bidding in the region and to retain an independent foreign policy.

In fact the discrepancy between US and Indian aims with regard to the deal and any further cooperation is bound to bring diplomatic conflict in the not too distant future. The US press already is heralding the deal as one sided whereby the US is portrayed as not receiving anything in return. The Indian left and opposition are on their side arguing that India is signing away sovereign rights. The argument is far from being settled.

Even if the actual text is not finally agreed upon by either the US Congress or the Indian Lok Sabha, the major aim of the deal will have been achieved: India will have been

internationally recognized as a responsible nuclear weapons state, and with it receives the global acknowledgement it has always sought.

In essence the nexus of energy, economic growth and global power status are now at the heart of India's foreign policy. This troika has changed foreign policy formulation, however maintaining the same goal Jawaharlal Nehru set out 60 years ago today.

Annex

Timeline of the nuclear deal

- September 2004 – Bush and Singh Meet: Both leaders discussed bilateral issues and among them initiated an energy dialogue between both countries
- March 16, 2005 – Talks in New Delhi: Secretary of State Condoleezza Rice meets PM Singh to build upon the previously announced Next Steps in Strategic Partnership
- March 25, 2005 – Sale of weapons to Pakistan: President Bush informs PM Singh that the US would resume sale of F-16 combat aircraft to Pakistan
- May 2005 – Launch of Energy Dialogue: Secretary of Energy Samuel Bodman and India Deputy Chairman of Planning Commission Dr. Montek Singh Ahluwalia launch this joint energy workshop between both countries
- July 18, 2005 – Announcement of a Proposed Civilian Nuclear Agreement: Both governments announced the proposed nuclear deal to aid the energy deficiency in India
- January 12, 2006 – Workshop of the Civilian Nuclear Working Group: This 4-day workshop building on the U.S.-India Energy Dialogue initiated by US President Bush and Indian PM Singh
- March 2, 2006 - India and US sign nuclear agreement April 20, 2006 – Rice says deal must be seen as part of growing ties

- June 28, 2006 – US house of Representatives international relations committee passes Bill to implement deal by 37-5 majority
- June 29, 2006 – US Senate foreign relations committee nod to deal
- July 26, 2006 – Manmohan Singh says India won't accept any new conditions in the deal
- July 27, 2006 – US House passes Indo-US nuclear Bill
- November 16, 2006 – US Senate passes Nuclear deal by 85-12 margin
- December 8-9, 2006 – Both Houses of Congress pass final version on Nuclear deal.: The Senate passes it by voice vote and the house passes it by a vote of 330 yes to 59 nays.
- December 18, 2006 – Henry Hyde Act (US-India Peaceful Atomic Energy Cooperation Act): Landmark legislation passed in the US allowing US nuclear technology to be transferred to India
- **July 17, 2007 – Final Rounds of Talks** Both sides meet in Washington to discuss issues and to overcome technicalities that emerged in the deal
- **July 20, 2007 – Deal Concluded:** Negotiations end in Washington as the deal is said to be concluded. Both sides announce that implementation is the next step

- **August 3, 2007 – 123 Agreement:** The full text of the deal is released with the proposed deal to last for 40 years if approved

Next Steps:

- India to negotiate with IAEA on safeguards
- India and US to negotiate with NSG to change its guidelines
- US Congress will convene in September after the summer recess to approve the deal

¹ Bandyopadhyaya, J. The Making of India's Foreign Policy, p.108

² Bandyopadhyaya, J. The Making of India's Foreign Policy, p.334

³ Dutt, V.P. India's Foreign Policy, p.278

⁴ Nanda, B.R. (ed.), Indian Foreign Policy - The Nehru Years, p.16

⁵ Mutual respect for each other's integrity and sovereignty, non aggression, non interference in each other's national affairs, equality and mutual benefit, peaceful coexistence

⁶ Chopra, S. (ed.) Studies in India's Foreign Policy, p.26

It is important to note that India concentrated its defence efforts solely towards Pakistan in the first decade after independence, Nehru believing that China was a friend and not a foe.

⁷The NDA Government envisions a future that rests on a cooperative **multipolar world order**, with India as one of the poles. India's aim in foreign policy has always been to secure for itself a steadily broadening role in international affairs, so that we can contribute meaningfully to the global community's collective ability to deal with the challenges of today and tomorrow. The NDA Government is proud of its foreign policy achievements in the last five years. We will build on these successes to focus on the following objectives in the coming five years.

Further strengthen our Look-East Policy to deepen the India-ASEAN relationship; initiate the BIMST-EC process; activate the Mekong-Ganga cooperation initiative; deepen our economic cooperation with Korea; and enrich our strategic partnership with Japan. (BJP manifesto 2004 <http://www.bjp.org/>)

⁸ North-East priorities

The NDA Government has given unprecedented attention to the development of the North-Eastern States in the last five years. These gains will be consolidated and placed on a stable footing. Our priorities in the coming five years would be:

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- 1) Restoration of peace and normalcy in all the disturbed regions by dialogue with all groups who are willing to give up the path of violence, and by firmly dealing with those who continue on this path.
 - 2) Ensuring that the ethnic identities of all the people in the North-East are protected.
 - 3) Repeal of the IMDT Act for putting an end to infiltration from Bangladesh.
 - 4) Accelerating economic development that provides growth opportunities to all.
 - 5) Development of the communication infrastructure to overcome the constraints of physical distance.
 - 6) Making all Indians more aware of the rich history and cultural heritage of our North-Eastern States, including Sikkim.
 - 7) Expanding regional economic cooperation with countries in our eastern neighbourhood and in South-East Asia. (BJP manifesto 2004 <http://www.bjp.org/>)

⁹ Chiriyankandath, J and Wyatt A. (2005) The NDA and Indian foreign Policy, in Adeney and Saez, Coalition politics and Hindu Nationalism, Routledge, London, pp 193-211.

¹⁰ Chiriyankandath, J and Wyatt A. (2005) The NDA and Indian foreign Policy, in Adeney and Saez, Coalition politics and Hindu Nationalism, Routledge, London, p. 202

¹¹ Chiriyankandath, J and Wyatt A. (2005) The NDA and Indian foreign Policy, in Adeney and Saez, Coalition politics and Hindu Nationalism, Routledge, London, pp 207-209

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¹² But BJP more on grounds of superiority of Hindu Culture. Harris, J. (2003) India: the bitter fruits of Grandiose Ambition, DESTIN working paper 03-45. P.7

¹³ As was duly noted by Subir Raha, Chairman and managing director of ONGC Videsh at the RIIA hosted conference: India: The next decade, June 2005, India constituted today 15% of the human population but only consumes 3.5% of the global energy consumption. This mismatch will not be sustainable in the long term. India's energy demand has risen by 4.5% between 1993 and 2003.

¹⁴ Total local Hydrocarbon resources, inclusive of deep waters are estimated at around 28 Billion Tonnes oil and oil-equivalent of gas (O+OEG). The prognostic availability of oil and gas reserves are located in 26 sedimentary basins covering 3 million sq kilometres. Production comes from less than 20% of this

area. (according to India's Energy and Power Sectors, Subir Raha, Chairman and managing director of ONGC Videsh at the RIIA hosted conference: India: The next decade, June 2005)

¹⁵ Report of the Working Group on Petroleum and Natural Gas for the XI Plan (2007 – 2012) p.69

¹⁶ Chari, PR. *Indo-US Nuclear Deal Unending Drama in Many Acts*. IPCS Issue Brief No. 42, January 2007

¹⁷ Check source

¹⁸ H.E. Dr. Jaishankar, The Political Significance of the Indo-US Nuclear Agreement, ISAS Closed Door Session, 3rd August 2007

¹⁹ 123 text and context, Pact unequal, Us can scrap it at will, The Asian Age, 04.08.07 p.1

²⁰ H.E. Dr. Jaishankar, The Political Significance of the Indo-US Nuclear Agreement, ISAS Closed Door Session, 3rd August 2007

²¹ H.E. Dr. Jaishankar, The Political Significance of the Indo-US Nuclear Agreement, ISAS Closed Door Session, 3rd August 2007

²² H.E. Dr. Jaishankar, The Political Significance of the Indo-US Nuclear Agreement, ISAS Closed Door Session, 3rd August 2007

²³ Tellis, Ashley J., India as a new global power, Carnegie Endowment for International Peace, 2005.

²⁴ Tellis, Ashley J., India as a new global power, Carnegie Endowment for International Peace, 2005.

²⁵ - Perkovich, George. *Faulty Promises: The US-India Nuclear Deal*. Policy Outlook, September 2005

²⁶ - China's stand on Indo-US N-deal. Professor C. Raja Mohan for The Straits Times, 27th July 2007

²⁷ 'India will lose most with US nuke deal', The Asian Age, 19.07.07 p. 4

²⁸ Cheney, Narayan stars of N-Deal, talks between duo point to a deeper strategic engagement, Times of India, 22.07.07 p.16

²⁹ Channel News Asia Online. *US, India extend talks in bid to salvage nuclear deal*. 19th July 2007

³⁰ End of nuke apartheid against India, Times of India, 4.08.07, p.12

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- ³¹ Express India.com, Highlights of Indo-US nuclear deal, 3rd August, 2007
- ³² Express India.com, 123 deal will impact future nuke testing: BJP, 3rd August, 2007
- ³³ 123 text and context, Pact unequal, Us can scrap it at will, The Asian Age, 04.08.07 p.1
- ³⁴ Indian press last few days
- ³⁵ Channel News Asia Online, India and US unveil landmark nuclear deal, 3rd August, 2007
- ³⁶ 'India will lose most with US nuke deal', The Asian Age, 19.07.07 p. 4
- ³⁷ MJ Akbar, A good deal walks on two legs, The Asian Age, 05.08.07
- ³⁸ Yashwant Sinha, preliminary comments released by the BJP on the 4th of August 2007, cited in 'BJP rejects nuke deal, wants JPC', The Asian Age, 05.08.07 p.1.
- ³⁹ The Hindu, "LF rejects 123 Agreement, demands discussion", 9th August 2007
- ⁴⁰ The US's Catastrophic Nuclear Deal with India: Power failure, The new Republic Online, 03.08.07
- ⁴¹ A price too high, The Economist, 02.08.07
- ⁴² Pakistan warns US of Asia arms race, Financial times, 02.08.07
- ⁴³ 'BJP rejects nuke deal, wants JPC', The Asian Age, 05.08.07 p.1.
- ⁴⁴ 'China hardens border dispute', The Asian Age, 05.08.07 p.1-2.