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## Indo-US Nuclear Deal

Implications for India and the Global N-Regime

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# INDO-US NUCLEAR DEAL

## IMPLICATIONS FOR INDIA & THE GLOBAL N-REGIME

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*The Indo-US nuclear agreement was a direct consequence of the US' recognition of India as a major power and an acknowledgement of India's strong non-proliferation record. The deal faced severe criticism in both countries. Critics in the US felt that the Bush Administration has given away too much and made "an India exception" to the NPT and that such an exception will be taken as a precedent by several other countries who may want to work out a similar deal for their allies/friends.*

*Indian opposition parties talked about India's right to test, the impact on India's strategic arsenal, and the strategic partnership with Washington.*

*The agreement has implications for the Asian strategic framework because it will bring the US and India closer, but its effects on the non-proliferation regime are likely to be minimal. .*

### **An Overview**

US President George W. Bush signed the legislation on the Indo-US nuclear deal into law on 8 October 2008. The law, now titled, "United States-India Nuclear Cooperation Approval and Non-proliferation Enhancement Act," is a product of the March 2006 agreement between India and the US on civil nuclear cooperation based on the joint statement between President Bush and Prime Minister Singh on 18 July 2005. The agreement was a direct consequence of the US' recognition of India as a major pole of power in the coming century - "an anchor of stability in Asia and an engine of global economic growth."<sup>1</sup> More importantly, the agreement is a result of India's strong non-proliferation record despite not being a party to the Nuclear Non-proliferation Treaty (NPT).<sup>2</sup> Additionally, the deal

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<sup>1</sup> Merle D. Kellerhals Jr., "Congress approves US-India Civil Nuclear Accord," 02 October 2008, available at <http://www.america.gov/st/peacesec-english/2008/October/20081002094758dmslahrelle.k0.3916284.html>

<sup>2</sup> While the Indo-US nuclear deal has been in clear recognition of India's non-proliferation record, the lawmakers in the US against the deal, have questioned India's track record. Senator Barbara Boxer, California Democrat, for instance, was quick to cite the September 18 *The Washington Post* story that highlighted leakage of sensitive nuclear blueprints by the Indian Department of Atomic Energy. A report by the Institute of Science and International Security (ISIS), authored by David Albright and Susan Basu questioned India's illicit procurement activities with regard to its nuclear programmes. See, Aziz Haniffa, "Lawmakers Question India's Non-proliferation Track Record," Rediff News, 19 September 2008, available at <http://www.rediff.com/news/2008/sep/19ndeal2.htm>; and David Albright and Susan Basu, "India's Gas Centrifuge Program: Stopping Illicit Procurement

undoubtedly recognises India's "de-facto" status as a nuclear weapons state.<sup>3</sup>

## I INDO-US NUCLEAR DEAL

The Indo-US civilian nuclear cooperation agreement was a broad framework agreement, not one dealing with specifics. The current agreement is a facilitative one that encourages engagement in nuclear commerce. Therefore, after the operationalisation of the deal, both India and the US will have to sign more specific agreements. However, to enable the two countries engage in nuclear commerce, a few conditions had to be met, including a change in US domestic laws, an NSG (Nuclear Suppliers Group) waiver and an India-specific safeguards agreement with the IAEA. While the US-India nuclear agreement was not designed to put restrictions on India's strategic programme; the US wanted to ensure that no technology or fuel transferred for India's

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and the Leakage of Technical Centrifuge Know-How," Institute of Science and International Security (ISIS), 10 March 2006, available at <http://www.isis-online.org/publications/southasia/indianprocurement.pdf>. Other opponents as well as some Indian analysts noted that although India may not have engaged in proliferating any nuclear material or technology, its conduct of nuclear tests in 1974 [although declared as a Peaceful Nuclear Explosion (PNE)] and 1998, was in clear violation of global non-proliferation objectives. See, Kelly Motz and Gary Milhollin, "Seventeen Myths about the Nuclear Deal: An Analysis of Nuclear Cooperation with India," Wisconsin Project on Nuclear Arms Control, 13 June 2006, available at [http://www.wisconsinproject.org/countries/india/Seventeen\\_Myths.htm](http://www.wisconsinproject.org/countries/india/Seventeen_Myths.htm). This report also talked about India smuggling heavy water from the USSR, China and Norway in the 1980s, allowing India to use its reactors to make plutonium for bombs. India's largest nuclear capable missile, Agni, was also cited as stolen/ illicitly procured technology (the design of an American space launcher from NASA) for peaceful purposes and diverted to military purposes.

<sup>3</sup> There are critics who stress that the deal does not recognise India as a Nuclear Weapons State.

civilian programme could be used for its military programme. These elements also had to be inserted into an India-specific IAEA Safeguards Agreement. Only after these conditions had been met would India be allowed to do business with the US or any other country in the nuclear arena. India also had to put in place a new export control mechanism before the two countries could proceed with the agreement. Accordingly, India harmonised its export control laws with that of the NSG and the MTCR Guidelines, although India is not a member of either of them. Similarly, India's "Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005," which entered into force in June 2005, brought about more stringent non-proliferation regulations and tighter export control measures and also showed India's commitment to non-proliferation.<sup>4</sup>

The path to the final agreement included many steps, each of which was controversial in India and/or the US, though usually for different reasons. Following the July 2005 statement to engage in civilian nuclear cooperation, President Bush and Prime Minister Singh signed a Civil Nuclear Cooperation Agreement in March 2006, during Bush's visit to New Delhi. Accordingly, in May 2006, a separation plan was announced by the Indian government, separating its

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<sup>4</sup> This piece of legislation was also in recognition of the UN Security Council Resolution 1540 that called upon states to establish stringent export control measures on the transfer, shipment, re-transfer and trans-shipment of materials or technology that may be used in the development, manufacture, and proliferation of weapons of mass destruction. See, United Nations Security Council, "Resolution 1540," 28 April 2004, available at <http://daccessdds.un.org/doc/UNDOC/GEN/N04/328/43/PDF/N0432843.pdf?OpenElement>. Also see, Ministry of External Affairs, Government of India, "The Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005," no. 21 of 2005, 6 June 2005, available at <http://meaindia.nic.in/actsadm/30aa08.pdf>

military and civilian facilities.<sup>5</sup> The plan was immediately opposed: as per this separation plan, eight plants would be left outside international safeguards. In addition, the Fast Breeder Reactors (FBRs) located at Kalpakkam were not offered for safeguards, as the Fast Breeder programme is still at the R&D stage and the technology will take time to mature. This came under sharp criticism from the non-proliferation activists in the US who argued that the large number of facilities outside the safeguards would make available “significant additional nuclear weapons production capacity”<sup>6</sup> to India. Upon finalization of the separation plan, the US agreed to build into the bilateral 123 Agreement, fuel supply assurances; help negotiate with the IAEA an India-specific Safeguards Agreement; help

<sup>5</sup> According to the separation plan, India has put 14 of the 22 thermal power reactors in operations under the civilian list. These include: TAPS 1, TAPS 2, RAPS 1, RAPS 2, KK 1, KK 2, RAPS 5, RAPS 6, RAPS 3, RAPS 4, KAPS 1, KAPS 2, NAPS 1 and NAPS 2. The facilities identified under the civilian category will be offered for the IAEA safeguards. However, the decision as to which facilities would come under the civilian or military categories was based solely on Indian determination. In terms of future reactors, it is up to India to determine which category they will belong to (except, of course, imported reactors, which will all be under safeguards). See, Ministry of External Affairs, “Implementation of the India-United States Joint Statement of July 18, 2005: India’s Separation Plan,” 11 May 2006, available at <http://meaindia.nic.in/treatiesagreement/2006/11ta1105200601.pdf>

<sup>6</sup> Arms Control Association, “The US-India Nuclear Deal: A Critical Assessment,” Arms Control Association Press Briefing, Prepared Remarks of Daryl G. Kimball, 15 February 2006, available at [http://www.armscontrol.org/events/20060215\\_Kimball\\_Prepared\\_Remarks](http://www.armscontrol.org/events/20060215_Kimball_Prepared_Remarks). Also brought into issue was the fact that the infusion of foreign fuel will free up India’s current stock for its weapons programme and thereby aid expansion of India’s nuclear weapons programme. This, according to Kimball, was in gross violation of Article I of the NPT, which stipulates that states shall “not in any way” assist the nuclear weapons programmes of others.

develop a strategic reserve of nuclear fuel to “guard against any disruption of supply”; and in case of disruption, the US and India agreed to put in place alternatives - countries like France, Russia and UK, which might be able to restore fuel supply to India.

After the separation plan was agreed upon, the Hyde Act was signed into law by President Bush in December 2006. The Hyde Act, considered the parent act of the 123 Agreement, provides the legal basis for nuclear commerce between India and the US, since India is not party to the NPT. The Hyde Act came under sharp criticism because of certain clauses which stated that India would work with the US in containing Iran’s nuclear programme and that the two would work together on a Fissile Materials Control Treaty. However, these were more by way of advisories than binding commitments. Nuclear testing was another issue debated during the passage of the Hyde Act. The BJP, the main opposition party in the Indian parliament, focused on the right to test as a serious issue, arguing that the deal would prevent India from conducting future tests. This is a false claim for nothing in the deal says that India cannot test. There may be consequences if India tests, but even these have been minimised because under the conditions of the deal, the US will have to take into consideration the circumstances under which India may have been forced to test, such as nuclear tests by India’s neighbours. Moreover, if India conducts a test, it will have to face international opposition irrespective of the deal.

Whatever be the controversy surrounding the Hyde Act, the 123 Agreement that was signed in August 2007, makes it abundantly clear that the Indo-US nuclear deal will not impact India’s strategic weapons programme in any manner. The agreement also makes no mention of India’s nuclear testing. In addition, the agreement clearly states that the US will work with other countries to alter the NSG rules to facilitate nuclear trade with India. However, the agreement, for a period of

40 years and extendable by another 10 years, can be terminated by either party after a one-year notice. Upon termination of the agreement, the US retains the right to take back “any nuclear material, equipment, non-nuclear material or components transferred.” The understanding is that the “right of return” will impact bilateral relations significantly, and therefore, a consultative mechanism has been put in place that will “give special consideration to the importance of uninterrupted operation of nuclear reactors of the party (country) concerned with respect to the availability of nuclear energy for peaceful purposes as a means of achieving energy security.”<sup>7</sup>

Once the 123 Agreement was finalised, the next steps involved the conclusion of an India-specific IAEA Safeguards Agreement, which was secured in July 2008 and a waiver of NSG rules that came through in September 2008. Thereafter, the agreement was sent to the US Congress for approval, where despite enjoying bipartisan support for strengthening US relations with India, the agreement faced stiff opposition from the strong non-proliferation lobby. While supporters of the deal like Senators Richard Lugar and Christopher Dodd stated that the deal was in the long-term interest of the United States, those opposing it argued that it would seriously undermine the nuclear non-proliferation regime. Senator Dodd highlighted some of the “compelling geopolitical reasons” like India’s geographic proximity to China, Pakistan and Afghanistan, as reasons to strengthen

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<sup>7</sup> If the right to return is exercised at some stage, it is necessary under the agreement, to “compensate promptly that Party for the fair market value thereof and for the costs incurred as a consequence of such removal.” See, Text of the 123 Agreement titled, “Agreement for Cooperation between the Government of India and the Government of the United States of America Concerning Peaceful Uses of Nuclear Energy,” 01 August 2007, available at <http://meaindia.nic.in/cgi-bin/db2www/meaxpsite/coverpage.d2w/coverpg?se c=pr&filename=pressrelease/2007/08/03pr01.pdf>

this relationship, while Senator Lugar emphasised the importance of strengthening US partnership with an India that shares its democratic values and which could “exert increasing influence on the world stage.”<sup>8</sup>

However, even those like Strobe Talbott, former Deputy Secretary of State, under President Clinton, who had worked hard to build a close partnership between India and the US, maintained that the Bush Administration had given away too much and made “an India exception” to the NPT.<sup>9</sup> He worried that the “India exception” will be viewed as a precedent by several other countries who may want to work out a similar deal with their allies/friends. A case in point is China which wants to strike up a similar deal with Pakistan. Robert Einhorn, former Assistant Secretary of State for Non-proliferation, and a critic of the deal, maintained that the Bush Administration had given away too much and that India had managed to get it all – “acquiring the ability to import uranium and nuclear reactor technology, obtaining recognition for India’s status as a nuclear power, and preserving all of India’s strategic options, particularly the ability to increase substantially its production of plutonium for nuclear weapons.”<sup>10</sup>

Daryl Kimball, executive director of the Arms Control Association called the deal a “non-proliferation disaster.” As for the US administration’s claims about the utility of the deal, Kimball said that the deal did not bring India into the non-proliferation framework, as it had made a “country-

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<sup>8</sup> Foster Klug, “Senate debates US-India Nuclear Deal,” *The Associated Press*, 01 October 2008, available at <http://ap.google.com/article/ALeqM5hjHnPx7XX0WpdjPiswhHLvaXj0pAD93HPTU83>

<sup>9</sup> “The Indo-US Nuclear Deal,” interview of Strobe Talbott and Robert Einhorn by Meenakshi Ahmed, *Seminar*, 2006, available at <http://www.india-seminar.com/2006/560/560%20interview.htm>

<sup>10</sup> Ibid.

specific exemption from core nonproliferation standards that the United States has spent decades to establish.”<sup>11</sup> Congressman Howard Berman, another fierce critic of the deal, wanted to introduce amendments to the deal, stating in unambiguous terms that the US would terminate nuclear trade with India if the latter resumed nuclear testing; and that the President would be required to review and implement applicable export control authorities for US nuclear exports to other nuclear supplier nations that continue nuclear trade with India.<sup>12</sup> However, this was withdrawn after Secretary of State Condoleezza Rice gave an assurance at the NSG meeting in November 2008 that it was the “highest priority” for the US to get an assurance to ban the export of enrichment and reprocessing (ENR) technology to countries like India that are not party to the NPT. Several Senators also criticised the fact that there was hardly any debate on an important issue such as this and the hasty manner in which the deal had been passed in the Congress. Another vehement critic, Senator Byron Dorgan stated that India was being rewarded for wrong behaviour.<sup>13</sup>

<sup>11</sup> Glenn Kessler, “Senate backs far-reaching nuclear trade deal with India,” *The Washington Post*, 02 October 2008, available at <http://www.washingtonpost.com/wp-dyn/content/story/2008/10/01/ST2008100103654.html>. In another statement on the same issue, Kimball went on to say that even “India’s so-called separation plan is not credible from a nonproliferation perspective.” See, Arms Control Association, “Statement of Daryl G. Kimball, Arms Control Association Executive Director, on the US-Indian Agreement for Nuclear Cooperation,” 01 October 2008, available at <http://www.armscontrol.org/node/3363>

<sup>12</sup> Arms Control Association, “Statement of Daryl G. Kimball, Arms Control Association Executive Director, on the US-Indian Agreement for Nuclear Cooperation,” 01 October 2008, available at <http://www.armscontrol.org/node/3363>

<sup>13</sup> Foster Klug, “Senate debates US-India Nuclear Deal,” *The Associated Press*, 01 October 2008, available at <http://ap.google.com/article/ALeqM5hjHnPz7XX0WpdjPiswhHLvaXj0pAD93HPTU83>. Similarly,

President Bush, however, using his overriding powers, killed several thorny conditionalities and stated clearly that “The legislation does not change the terms of the 123 Agreement as I submitted it to the Congress.”<sup>14</sup> He went on to clarify that India’s right to reprocessing and fuel assurance commitments remained the same, as recorded in the 123 Agreement.<sup>15</sup> In the final step towards the operationalisation of the agreement, President Bush had to make two sets of certifications: (1) that the conclusion and implementation of the agreement was consistent with US obligations under the NPT, and (2) that it is the policy of the US to work with members of the NSG to

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Ambassador Robert Grey, former Representative at the Conference on Disarmament stated that the US was doing a bad deal with India as far as non-proliferation was concerned. He added, “This is a bad deal that we are getting into here in terms of nonproliferation. We created the nonproliferation regime, we got it through the international community. We supported it consistently over successive administrations, both Republican and Democrat. Now we have reversed course. We are opening a hole with this agreement with India that you could drive a truck through.” See, Dan Robinson, “US-India Nuclear Deal Poised for Approval by House of Representatives, Senate,” *VOA News*, 27 September 2008, available at <http://www.voanews.com/english/2008-09-27-voa6.cfm>

<sup>14</sup> The White House, “Statement by the President on the Occasion of Signing H.R. 7081,” 08 October 2008, available at <http://www.whitehouse.gov/news/releases/2008/10/20081008-3.html>

<sup>15</sup> President Bush clarified these two issues by stating that “The Agreement grants India advance consent to reprocessing which will be brought into effect upon conclusion of arrangements and procedures for a dedicated reprocessing facility under IAEA safeguards. In addition, the legislation does not change the fuel assurance commitments that the US Government has made to the Government of India, as recorded in the 123 Agreement. See, The White House, “Statement by the President on the Occasion of Signing H.R. 7081,” 08 October 2008, available at <http://www.whitehouse.gov/news/releases/2008/10/20081008-3.htm>

restrict transfers of enrichment and reprocessing technology. These certifications have now been made through a Memorandum to the Secretary of State (21 October) and the two countries will shortly exchange diplomatic notes as per Article 16 (1) of the 123 Agreement that brings the agreement into force.

## II IMPLICATIONS FOR INDIA

It should be abundantly clear that the agreement is more than just about nuclear energy for India. The agreement has several strategic connotations, including with regard to China.

First, the agreement is an outcome of the US' recognition that India is a major power in the 21<sup>st</sup> century and that it has a vital role to play in the emerging Asian strategic framework. If this century is going to be an Asian century, as has been widely predicted, the major powers would be the US, China, Russia, Japan, and India. Hence, it is strategically important for the US to have a strengthened and comprehensive relationship with India. It should also be noted that both the US and India have concerns regarding China's rise and more specifically its military modernisation which will have a bearing on the way China conducts business with the rest of the world.

Second, if the US wishes to take this relationship to a higher plane, the continuing technology controls placed on India will be a major stumbling block. All said and done, it is the trade in strategic goods and technology and not perceived common interests alone that will make this relationship an enduring one.<sup>16</sup> This is the

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<sup>16</sup> Several analysts maintain that it is the trade in strategic goods that will take the bilateral relations to a higher level. For instance, Varun Sahni, in an essay, states, "access to dual-use technology" will be the "litmus test" of this strategic relationship between India and the US. See, Varun Sahni, "Limited Cooperation Between Limited Allies," in Sumit Ganguly, Brian Shoup and Andrew Scobell (eds.), *US-Indian Strategic Cooperation into the*

second imperative on the basis of which the nuclear agreement with the US must be analyzed. However, many Indian analysts have contested this, arguing instead that the agreement is a way of bringing India into the non-proliferation order.

Third, the Indo-US nuclear agreement is in India's interest. It marks the end of the nuclear apartheid India has been subject to in the last three decades. The deal recognizes India as a nuclear power, which has been of great concern to the non-proliferation ayatollahs of Washington.

Four, as regards the impact of nuclear disarmament on the Indo-US nuclear deal; the impact on the deal and civilian nuclear cooperation will be minimal if the global community agrees to a timeframe to rid the world of nuclear weapons, which however, remains highly unlikely. The nuclear deal and the civilian aspects of the nuclear programme will not be hampered by a universal disarmament plan.

Analysts have been concerned about the implications of the deal for the Iran-India gas pipeline. Firstly, the Iran-India pipeline remains independent of the Indo-US nuclear deal. Given India's increasing demand for energy, India must look at every available option for energy procurement, including nuclear energy. The US position vis a vis Iran has become controversial due to Iran's alleged pursuance of a nuclear weapons programme. India is also likely to be wary of a nuclear Iran in its neighbourhood.

On the issue of the impact of the deal on India's military programme; India's opposition party, the BJP, while criticizing the deal on the issue of nuclear testing, has raised concerns that the deal puts a cap on India's strategic nuclear arsenal. The deal was perceived as curtailing India's sovereign decision to decide on the size of its nuclear arsenal. The fact is that India

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*21<sup>st</sup> Century: More than Words* (London and New York: Routledge, 2006), p.178.



already has sufficient indigenous uranium reserves (78,000 metric tons of uranium (MTU)) to pursue its strategic weapons programme; hence the Indo-US nuclear deal will not hamper its military programme in any manner.<sup>17</sup>

Lastly, the impact will be more in terms of the emerging Asian security framework. If India wishes to step out of the South Asian cocoon and take its rightful place on the world stage, it is the US that can help India achieve that. Although Russia is also keen on seeing a stronger India with other major players at the high-table, it has little capacity to help India in this regard. China, on the other hand, has consistently played a less than supportive role, as was seen at the recent NSG meeting.<sup>18</sup> China has little interest in seeing another power emerge in Asia, and does not want India to build closer ties with the United States or other Asian powers that could be detrimental to Beijing's own regional and global role.<sup>19</sup> That Beijing has not categorized India as a challenge or threat even though it considers

India as a "future strategic competitor" that might join any anti-China grouping, appears deliberate. As a matter of fact, China had undertaken an internal study in 2005 and its recommendations are revealing. It recommended that China undertake measures to maintain its current strategic leverage in terms of territory, P-5 membership, or the Nuclear Club; hold on to diplomatic advantages through its special relationship, particularly with India's neighbouring countries; as also maintain its economic lead over India.<sup>20</sup>

Fears were also raised about the possible loss of autonomy in determining the future course of India's foreign policy. Is this a valid concern? The Left parties in India were of the view that India could not afford to be subservient to any nation.<sup>21</sup> This fear however, is unfounded, as India is not a puppet nation which can be dictated to according to the whims and fancies of other countries. India's vote on Iran at the IAEA in September 2005 triggered much of the controversy surrounding the issue of the autonomy of India's foreign policy.<sup>22</sup>

<sup>17</sup> Ashley Tellis, in his report, *Atoms for War* makes it abundantly clear that India's quest for a large nuclear arsenal was never hindered due to shortage of uranium, rejecting the arguments of critics who had maintained that through the Indo-US nuclear deal, India will be able to get additional uranium from outside that will free up the indigenous material for its military programme. See Ashley Tellis, *Atoms for War: US-Indian Civilian Nuclear Cooperation and India's Nuclear Arsenal*, 2006, available at <http://www.carnegieendowment.org/files/atomsforwarfinal4.pdf>

<sup>18</sup> Some Indian analysts believe that the Chinese opposition to the Indo-US nuclear deal was not India-centric. One of the China watchers in Delhi, Jabin Jacob notes that the opposition was US-centric, for instance, the US position on the Taiwan conflict. See, Jabin T. Jacob, "Indo-US Nuclear Deal: The China Factor," *IPCS Special Report 14* March 2006, available at <http://www.ipcs.org/IPCS-Special-Report-14.pdf>

<sup>19</sup> Mohan Malik, "India-China Competition Revealed in Ongoing Border Disputes," *PINR Report*, 09 October 2007, available at [http://www.pinr.com/report.php?ac=view\\_printable&report\\_id=695&language\\_id=1](http://www.pinr.com/report.php?ac=view_printable&report_id=695&language_id=1)

<sup>20</sup> Ibid. The study, undertaken at the behest of Chinese leadership's "Foreign Affairs Cell," had incorporated inputs from China's South Asia specialists like Cheng Ruisheng, Ma Jiali, and Sun Shihai, among others.

<sup>21</sup> According to them, the deal will have the following major implications: a) it will seriously compromise India's strategic autonomy; b) it will promote nuclear weaponisation and create a spiralling nuclear arms race between India and Pakistan; c) it will jeopardise India's energy independence and security; and d) it will push India deeper into an unequal strategic partnership with the US with serious all-round implications for India's foreign policy as well as internal policies. See, Communist Party of India (Marxist-Leninist) Liberation, *Editorial*, "Indo-US Nuclear Deal: CPI(M) Joins Congress to Script a Spurious "Sense of the House," September 2006, available at [http://www.cpiml.org/liberation/year\\_2006/September/editorial.htm](http://www.cpiml.org/liberation/year_2006/September/editorial.htm)

<sup>22</sup> Matters became complicated with some of the comments from US Congressmen like Tom Lantos, who stated in the House International Relations Committee, that "India had to choose between the "ayatollahs" of terror and the United States." See,

But it must be noted that a majority of the opposition to the deal has been political, whether from the Left parties or the BJP. If the BJP were in power, it is likely to have agreed to a similar deal with the US. As far as the Left parties are concerned, they will have a myopic view and are likely to see any agreement with the US as being against India's interests.

### III IMPLICATIONS FOR THE GLOBAL NUCLEAR REGIME

How does the Indo-US nuclear agreement affect the global nuclear regime? Firstly, it is claimed that the deal would undermine US efforts to dissuade countries like Iran and North Korea from pursuing their nuclear weapons programmes. Several fierce opponents of the deal, including Edward Markey and Barbara Lee have said that making an India-specific exemption will be seen as "creating incentives for other countries to withdraw from the NPT."<sup>23</sup> It was argued that the US was adopting double standards on the

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Ninan Koshy, "India and the Iran Vote in the IAEA," *Foreign Policy in Focus*, 27 October 2005, available at <http://www.fpif.org/fpiftxt/2907>

<sup>23</sup> See, Lalit K. Jha, NDTV, "Debate on Indo-US Nuclear Deal in US House: Who Said What," 28 September 2008, available at <http://www.ndtv.com/convergence/ndtv/story.aspx?id=NEWEN20080066943> and Dan Robinson, "US-India Nuclear Deal Poised for Approval by House of Representatives, Senate," *VOA News*, 27 September 2008, available at <http://www.voanews.com/english/2008-09-27-voa6.cfm>. During the debate in the House, Edward Markey stated, "Flashing a green light to India sends a dangerous signal to all of those countries because these policies are interconnected. The Bush Administration argues that breaking the nuclear rules for India will not lead to broken rules for anyone else, but they are wrong. Like the financial crisis that is now gripping the globe, this disastrous nuclear deal will come back to haunt us because there is no bailout for a nuclear bomb." See, Markey Decries House Approval of US-India Nuclear Deal," 27 September 2008, available at <http://markey.house.gov/index.php?option=content&task=view&id=3454&Itemid=125>

issue of non-proliferation. The issue was probably best posed by Robert Einhorn, in an interview, when he stated that the US obviously has double standards in "not treating India the same way we treat NPT cheaters like North Korea and Iran."<sup>24</sup> He went on to state that in the Bush Administration's view, it is not the weapons that are necessarily dangerous, but the regime that is in control of those weapons. Einhorn disagrees with such an approach which focuses on the nature of the regime. He argues that while the US does not perceive it as a threat when a "good country" acquires nuclear weapons, it should also be borne in mind that the good country could be surrounded by a "not so good country" that might follow suit, which could then become threatening to the US. Hence, he argues that it is not good to make a differentiation between good and bad proliferation. Second, a so-called good country could become bad, threatening or unstable, and irresponsible. Lastly, the threat of nuclear materials or technology leakage exists even in a so-called good country and today's good country can become tomorrow's bad country.

The second impact relates to the spiral effect that the Indo-US nuclear agreement could have on the global nuclear regime. Pakistan has been making noises about its increasing energy needs and thereby, the necessity for a similar deal with the US. Although the US, especially President Bush categorically rejected these demands, as early as July 2005, Pakistan's all-weather friend China might want to come to Pakistan's rescue. China could push for a similar deal with Pakistan, arguing, as Strobe Talbott puts it, for "equal treatment" for Pakistan, negating the special considerations and exceptions

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<sup>24</sup> "The Indo-US Nuclear Deal," interview of Strobe Talbott and Robert Einhorn by Meenakshi Ahmed, *Seminar*, 2006, available at <http://www.india-seminar.com/2006/560/560%20interview.htm>.

made for India.<sup>25</sup> Will that be in the interest of the US and more importantly, India?

The third impact relates to the future of the nuclear regime itself and how the Indo-US nuclear deal has strengthened or weakened it. Is a dying non-proliferation regime in India's interest? Obviously not. On the other hand, critics in India argued that the deal was a way of getting India into the global nuclear regime through the back door. Clearly, both these extreme positions are wrong, and the truth lies

<sup>25</sup> China may not push for a similar deal with Pakistan, as the US has done for India. During the visit of Pakistan President Asif Ali Zardari to Beijing in October 2008, some senior Pakistan and Western officials commented that China in effect has agreed privately to follow a "step-by-step" approach in assisting Pakistan's quest for nuclear energy, rather than a formal civil nuclear agreement on the lines of the Indo-US nuclear deal. China has already installed a 325-MW nuclear power reactor at Chashma, Punjab province, and additionally China plans to install a second power reactor of the same capacity there, expected to be completed by 2011. Foreign Minister Shah Mahmood Qureshi stated that Chashma III and Chashma IV reactors would provide Pakistan with an additional 680 megawatts of generating capacity. Qureshi did not elaborate on the kind of assistance that China may provide in this regard, although it is assumed that China will introduce grandfather clause into its earlier agreements with Pakistan. Prior to joining NPT in 1992, China had signed an agreement with Pakistan (31 December 1991) to build the Chasma nuclear power reactor in the Punjab province. See, Farhan Bokhari, "China Aiding Pakistan's Nuclear Ambitions," *CBS News*, 16 October 2008, available at <http://www.cbsnews.com/stories/2008/10/16/world/main4527309.shtml>; "China to Help Pakistan Build Two More Nuclear Power Plants," *CNN*, 18 October 2008, available at <http://www.cnn.com/2008/WORLD/asiapcf/10/18/pakistan.china.nuclear.ap/>; "Pakistan Gets Confirmation on Chinese Reactor," *Nuclear Engineering International*, March 1992, p. 7; and Robert Shuey and Shirley A. Kan, "Chinese Missile and Nuclear Proliferation: Issues for Congress," *CRS Issue Brief*, 29 September 1995, p. 9, cited in "China's Nuclear Exports and Assistance to Pakistan," *Nuclear Threat Initiative*, updated 14 November 2003, available at <http://www.nti.org/db/china/npakpos.htm#3>

somewhere in between. The deal will neither hurt the non-proliferation regime nor was it designed to trick India into the NPT.

Another issue relates to how the deal is viewed within the Islamic world. Since Pakistan is the only Islamic country that has a bomb, there could be demands from Muslim countries for Pakistan to be treated as an equal and for it to be given a similar deal.<sup>26</sup> Though the US might say no, China, in its efforts to strengthen its friendship with Pakistan, in addition to creating a favourable influence among the Islamic countries, could opt for a similar deal with Pakistan.

Several analysts believe that the Indo-US nuclear agreement has set a precedent for other countries aspiring to develop nuclear technology, to follow suit. Israel is believed to have recently cited the Indo-US civil nuclear agreement as a model for developing its nuclear power option. It said that the Indo-US agreement had set the precedent for Israel to seek changes in the NSG rules and help construct its first nuclear power plant in the Negev desert.<sup>27</sup>

Lastly, will the Indo-US nuclear deal lead to an arms race in Asia? The arguments

<sup>26</sup> This idea was well-articulated by Strobe Talbott in an interview to *Seminar*. See, "The Indo-US Nuclear Deal," interview of Strobe Talbott and Robert Einhorn by Meenakshi Ahmed, *Seminar*, 2006, available at <http://www.india-seminar.com/2006/560/560%20interview.htm>. Islamic countries are not a huge monolith, and one should also keep in mind the Saudi-Iran rivalry.

<sup>27</sup> Amit Baruah, "Now, Israel Wants NSG Rules Changed," *Hindustan Times*, 28 August 2007, available at [http://www.hindustantimes.com/StoryPage/FullcoverageStoryPage.aspx?id=9a7f3e9c-db05-4333-beb1-ccce17c6658\\_Special&MatchID1=4858&TeamID1=1&TeamID2=5&MatchType1=1&SeriesID1=1224&MatchID2=4862&TeamID3=9&TeamID4=8&MatchType2=2&SeriesID2=1225&PrimaryID=4858&Headline=Now%2c+Israel+wants+NSG+rul es+changed](http://www.hindustantimes.com/StoryPage/FullcoverageStoryPage.aspx?id=9a7f3e9c-db05-4333-beb1-ccce17c6658_Special&MatchID1=4858&TeamID1=1&TeamID2=5&MatchType1=1&SeriesID1=1224&MatchID2=4862&TeamID3=9&TeamID4=8&MatchType2=2&SeriesID2=1225&PrimaryID=4858&Headline=Now%2c+Israel+wants+NSG+rul es+changed).

made by some of the analysts have been that in light of the infusion of foreign fuel and technology into India for its civilian nuclear programme; materials and technology will become available for its military programme, thereby, leading to the expansion of India's strategic weapons programme. China and Pakistan will look at this development with some concern. Both these countries in turn, might further expand their own weapons programmes. If China begins to expand its weapons programme; Russia and thereafter, the US could also expand their arsenals.

#### **IV CONCLUSION**

The Indo-US nuclear deal has been the logical conclusion of a vision for US-India relations as framed by President Bush and Prime Minister Singh. It is an opportune moment for India to step out of the South Asia cocoon, onto the high-table as a major power, and shape the emerging Asian security architecture. The US has helped India reach the high-table, but how India makes use of this and shapes the architecture is up to New Delhi. India may also consider using this high-chair to influence US actions/policies vis-a-vis Russia. In fact, India and the US need to leverage the mutual suspicion between Russia and China. Although tactical in nature, the Sino-Russian relationship does have the potential to emerge as a potent strategic force if the current trend in international politics continues for the foreseeable future. In fact, there are several commonalities between Russia, US and India – terrorism, WMD proliferation and a stable Asian security order. The US must shed its biases about Russia and exploit Russia's wariness of China to the fullest in order to build a cooperative security framework within Asia. The high-chair may be of no use if India continues to be reactive in its foreign and security policies.

The spiral effect that the Indo-US nuclear deal could have on the global proliferation regime is yet to be validated. It should be noted that irrespective of the deal, China

and Pakistan will continue with the process of expanding their military arsenals. The Indo-US nuclear deal will only help them in so far as they use it as a justification.

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