

# INDIA-US NUCLEAR PACT: HOW STRATEGIC PARTNERSHIP GOT ENTANGLED IN DOMESTIC POLITICS

POUJENLUNG GONMEI

## INTRODUCTION

The Modi-Obama diplomacy that announced the breakthrough to the nuclear pact logjam has a similarity with the Bush-Singh 2005 Joint Statement and the Rice-Mukherjee diplomacy which inked the 123 Agreement in 2008. After diplomatic breakthroughs, all of them left the nuclear issues in the hands of their domestic constituencies. As a result, the nuclear pact which envisaged a strategic partnership, was approved by their domestic constituencies but it later got entangled in the reemergence of divergent domestic politics. The Modi-Obama summit agreement to set up a “risk-transfer” insurance pool and the waiving of the intrusive inspection requirement has not ruled out the leveraging role of domestic politics. As in 2008, the two leaders have left the onus of operationalising the agreement to domestic players again. While the US has left it to its nuclear industries, General Electrics and Westinghouse, Modi agreed to let India’s domestic insurance companies, led by General Insurance Company of India (GIC Re), fund the insurance pool.<sup>1</sup>

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1. Frank Jack Daniel and Douglas Busvine: “‘We Have a Deal’ - Insurance May Unlock India-US Atomic Trade,” *Reuters*, Sunday January 25, 2015, <http://in.reuters.com/article/2015/01/25/india-obama-nuclear-idINKBN0KY0U520150125>. Accessed on January 26, 2015.

**Diplomacy and domestic politics have shaped the contours and trajectory of the India-US nuclear pact.**

Diplomacy and domestic politics have shaped the contours and trajectory of the India-US nuclear pact. While structural balancing compulsions provided convergence of interests and gave them diplomatic breakthroughs, the reemergence of hawkish domestic politics hindered agreement. The Modi-Obama diplomacy, however, eventually overcame the hawkish domestic preferences, nuclear suppliers' liability and intrusive inspection issues. This paper examines the prospects of executing the civil nuclear pact, a critical issue which had besieged India-US relations for nearly four decades. First, how did their domestic politics stall the nuclear pact? Second, to what extent could implementation of this nuclear pact reinvigorate their troubled strategic partnership? Third, what were the driving forces behind the Modi-Obama diplomacy that resolved the intractable domestic issues to salvage the nuclear agreement?

**HISTORIC AGREEMENT**

India-US relations witnessed the height of their bilateral diplomacy in the 2005 Joint Statement, which declared India as a state with advanced nuclear technology and promised it full civil nuclear cooperation for its non-proliferation credentials. It promised benefits and advantages similar to those provided to a nuclear Non-Proliferation Treaty (NPT)-nuclear weapon state. It also enjoined upon India to further undertake non-proliferation responsibilities. Accordingly, after three years of negotiations, the two countries signed the nuclear pact in 2008, also known as the 123 Agreement. The nuclear pact signalled the arrival of the "natural allies"<sup>2</sup> and the strategic partnership envisaged in the Next Step in Strategic Partnership (NSSP). The nuclear pact effectively overturned the "nuclear apartheid" and the sanctions imposed by the US-initiated non-proliferation regime. It has opened opportunities for India to be admitted into the Nuclear Suppliers Group (NSG).

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2. Prime Minister Atal Behari Vajpayee referred to the post-Pokhran India-US ties as "natural allies" during his visit to the US on September 7, 2000. This was preceded by the Strobe Talbot and Jaswant Singh dialogues between 1998 and 2000 which dwelt on issues pertaining to the nuclear tests and sanctions. This was soon followed by the 2004 Next Steps in Strategic Partnership.

Two years later, the nuclear pact itself and the strategic partnership got entangled in their divergent domestic politics. Differences over India's liability law, the Civil Liability for Nuclear Damage Act (CLNDA) 2010, and the US intrusive fuel tracking demand stalled the nuclear deal. Besides these issues, other differences also cropped up in the areas on which the countries had agreed upon to work together as strategic partners. India's decision to acquire the French Rafael fighter planes, rejecting the US Boeing Super Hornet and Lockheed Martin fighter planes in a defence modernisation deal worth \$10 billion to acquire 126 Medium Multi-Role Combat Aircraft (MMRCA) caused another deep wedge.<sup>3</sup> India and the US confronted differences at the World Trade Organisation (WTO) Trade Facilitation Agreement negotiations until this was resolved in November 2014. India and the US confronted policy differences over India's insistence on subsidy for its food security policy. Although both are victims of terrorism, the US policy on terrorism diverged from that of India in the Af-Pak sector.<sup>4</sup> The diplomatic row over the arrest of Devyani Khobragade in 2013 pushed ties between the two countries down to one of the lowest points since the euphoria of the 2005 Joint Statement.

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### GREAT EXPECTATIONS

Three developments increased the expectations of the Modi-Obama summit diplomacy to address the nuclear imbroglio. One, the Bharatiya Janata Party

3. India's decision to opt for the French fighter planes caused much policy ripples in the US in 2012. US officials were disappointed at India's decision to give preference to technical issues rather than strategic gains. The French aviation company Dassault and the Government of India are facing differences over the status of the 108 aircraft which are to be manufactured in India.
4. While the US extradited the Taliban leader Latifullah Mehsud who was in its custody in Afghanistan to Pakistan in December 2014, India's request for extraditing David Headley for his complicity in the 26/11 terrorist attacks in Mumbai had been turned down by the US. India sees this refusal by the US as an anomalous stand of the US on combating terrorism and has raised questions on the US commitment to the war against terror.

(BJP)-majority government replaced the Congress-led United Progressive Alliance (UPA) coalition government that later renegaded on its nuclear pact commitment. Two, the BJP government which centred around the charismatic personality of Narendra Modi, also replaced the Advani-BJP group that had raised objections to the nuclear pact. Three, the projection of the existence of 'chemistry' and warm personal relations between Modi and Obama after their first meeting in September 2014. These events helped to remove the domestic political obstacles that could come in the way of the nuclear pact.

Notwithstanding Modi's recent persona non-grata status in the US until 2013, the two leaders went on to build strong personal relations. Modi's high-profile visit to the US in September 2014 had been reciprocated by Obama's second visit to India. Their subsequent meetings in Myanmar, Japan and Australia at multilateral interactions increased these expectations and the scope to resolve the nuclear imbroglio. Eventually, the Modi-Obama diplomacy resolved the knotty issues in which the nuclear pact was entangled by addressing, the safeguards and liability issues.

Symbolically, Modi's invitation to Obama for the second visit is a reiteration of India's traditional foreign policy choice of strategic autonomy, and a major diplomatic statement intended to square off the two visits by President Vladimir Putin to India.<sup>5</sup> Geo-politically, this summit diplomacy and the operationalisation of the nuclear deal were important to the US to show that it can effectively replace Russia, India's Cold War era strategic partner, and help balance the emerging China as India's new strategic partner. Do Modi and Obama have the potentials to meet these surging expectations? A look at the interfaces between their geo-political interests and domestic politics becomes imperative to determine the fate of the nuclear deal and their strategic partnership.

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5. US expressed its unhappiness at the 20 agreements signed between India and Russia during the visit of Vladimir Putin to India in December 2014. Jen Psaki, spokesman for the State Department stated that it was not time for conducting "business as usual with Russia". Putin was accompanied by the Crimean Premier Sergey Aksyonov who is in the sanctions list of the US and the EU for his role in the accession of the Ukrainian Crimea region to Russia in 2014.

## THEORISING INTERNATIONAL COOPERATION

The structural realist theory specifies that the behaviour of states would be primarily shaped by the compulsions of structural anarchy and domestic political preferences would be subservient to it.<sup>6</sup> This simplified Waltzian realist theoretical assumption confronts an anomalous situation in the India-US nuclear agreement. Empirical evidence suggests that India-US relations have been determined by the close interplay between structural compulsions and domestic preferences. If structural balancing politics and domestic-origin normative aspirations located them in opposite camps for the greater phase of their relations, domestic politics currently held sway in pushing them away from each other, particularly after the 123 Agreement was inked.

Robert D. Putnam's Two-Level Games Model (TLGM), an International Relations (IR) theory of negotiations explains that international cooperation takes place when states share overlapping interests or win-sets.<sup>7</sup> When states do not share overlapping win-sets, agreement is not possible. Win-sets are the sets of diplomatic agreements which are ratified by domestic constituencies for cooperation to take place. According to Putnam, the tentative international agreement arrived upon by the political leaders of the country must be ratified by the legislature of the respective country. Hence, a win-set size is a critical factor in negotiations. While a large win-set enables cooperation, a smaller win-set provides bargaining leverage. When an agreement is not ratified, a negotiator is said to have committed defection. It is an involuntary defection when its legislature fails to ratify the agreement. On the other hand, it is a voluntary defection if it is rejected by the diplomats.

The 2008 nuclear pact had been stalled due to the unprecedented liability obligations imposed on the nuclear suppliers by India's CLNDA and the US' insistence on intrusive inspection under the end user verification clause of its Atomic Energy Act. Theoretically, the failure of the UPA government and Obama Administration to implement the nuclear pact is an indication of the defection in the TLGM. Yet, the continuity of the nuclear dialogue

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6. Kenneth N. Waltz: *Theory of International Politics* (Berkeley: University of California, 1979).

7. Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two Level Games", *International Organization*, vol. 42, no.3, Summer 1988, pp.427-460.

**The 2008 nuclear pact had been stalled due to the unprecedented liability obligations imposed on the nuclear suppliers by India's CLNDA and the US' insistence on intrusive inspection under the end user verification clause of its Atomic Energy Act.**

by Modi and Obama and the subsequent agreement to implement it suggests Indian and US interests retain convergence of interests. So this paper examines how shared interests and the negotiations at the diplomatic and domestic levels led to the nuclear pact.

#### **BIPARTISAN CONGRESS AND LOK SABHA'S TRUST VOTE**

This section shows how converging interests led to the nuclear pact between India and the US. While the win-set of the US is larger due to its larger strategic, commercial and non-proliferation interests, India's win-set is restricted and ambivalent due to domestic political pressures.<sup>8</sup> As a result, domestic negotiations in the US saw a cautious Congress extend its bipartisan support.<sup>9</sup> Congress expected strategic, non-proliferation and economic benefits through the nuclear pact. India's win-set was smaller because it was averse to the China-containment strategic balancing role that the US had envisaged for it. Further, it saw practically no commercial and employment promises to sell to the domestic constituencies. Additionally, the UPA government encountered stiff political resistance from the left parties within its coalition allies. Notwithstanding this resistance, the Lok Sabha Trust Vote on July 22, 2008, finally closed the deal. Thereafter, India and the US worked together at the International Atomic Energy Agency (IAEA) and the NSG to pursue the nuclear pact.

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8. Condoleezza Rice, *No Higher Honor: A Memoir of My Years in Washington* (New York: Crown Publishers, 2011); Ashley J Tellis: "Kick-Starting the US-Indian Strategic Partnership" Carnegie Endowment for International Peace, Washington DC, September 22, 2014, <http://carnegieendowment.org/2014/09/22/kick-starting-u.s.-indian-strategic-partnership>. Accessed on January 20, 2014.
  9. Dick Lugar: "United States-India Peaceful Atomic Energy Cooperation and US Additional Protocol Implementation Act", Report of the Committee on Foreign Relations, 109th Congress Report, Senate 2nd Session 109-288. (Washington DC: US Government Printing Office, 2006)., accessed on February, 21, 2012, (2006). Joe Biden: "US-Indian Nuclear Energy Cooperation Security and Nonproliferation Implications" US 109th Congress, Session 1st, Senate Committee on Foreign Relations, November 2, 2005 (Washington DC: US Government Printing Office, 2005).

American strategic experts and business lobbies convinced Congress to look at the 123 Agreement beyond economic and non-proliferation gains – also as an agreement with vast strategic benefits.<sup>10</sup> The Hyde Act, the deal-enabling Act, was, however, passed with certain non-proliferation riders. Most prominent among them are Sections 103 and 104 which prohibited nuclear tests, included restrictions on transfer of fuel Enrichment and Reprocessing (ENR) technology and heavy water, and gave the US president the right to ask for the return of the US supplied nuclear fuel and materials in the event of nuclear tests by India.

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In the Lok Sabha, the UPA government's motion for the nuclear pact under the 123 Agreement won the trust vote on July 22, 2008, but it turned out to be a pyrrhic political victory. Since the 2005 joint statement, the trajectory of nuclear negotiations in India moved in opposite ways from that of the course in the US. While the Bush Administration and Congress concurred with each other to extend bipartisan support to the nuclear agreement, the political parties in India responded to the nuclear deal on ideological and partisan lines. The left parties, a coalition ally in the UPA government consisting of 54 Members of Parliament (MPs), withdrew their support to the government, to join the anti-nuclear deal protests along with the BJP. Due to these divergent domestic pressures, the UPA government could not implement the nuclear pact.

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10. Ashton B. Carter, "US-Indian Nuclear Energy Cooperation Security and Non-proliferation Implications", *US 109th Congress, Session 1st, Senate Committee on Foreign Relations*, November 2, 2005 (Washington DC: US Government Printing Office, 2005); Ashley J. Tellis, "India as a New Global Power" in Ashley J. Tellis, Robert D. Blackwill and S. Enders Wimbush, *India as a Global Power: An Action Agenda for the United States* (Washington DC: Carnegie Endowment for International Peace, 2005); Bruce R. Josten: "Letter to Congress Supporting the U.S.-India 123 Agreement", US Chambers of Commerce, October 1, 2008: <http://www.uschamber.com/issues/letters/2008/letter-supporting-us-india-123-agreement>. Accessed on March 19, 2011

## IAEA SAFEGUARDS AND NSG WAIVER

As much as the India-US nuclear pact was driven by a convergence of the win-set in the strategic, commercial and non-proliferation areas, India's safeguards agreements with the IAEA and NSG were also driven by a similar convergence of interests. Besides the India-US bilateral agreement, the nuclear pact also received the affirmative resolutions of the IAEA and the NSG in 2008.<sup>11</sup> While the IAEA's support was relatively easier to secure, the NSG's "clean waiver" became difficult due to the domestic politics of the "Group of Six", a group of NSG countries with non-proliferation views divergent from those of the US. The stand of the "Group of Six" countries essentially was a reflection of their domestic political parties' preferences, that insisted on NPT membership as the criteria for the NSG waiver. For instance, Phil Goff, New Zealand's minister for disarmament and arms control, depended on the support of the left-green parties to be in power.<sup>12</sup> Reflecting their coalition partners' opinion, opposition to a nuclear pact with India, a non-NPT state, the Group of Six delayed the consensual waiver at the NSG.<sup>13</sup>

Adding to this domestic politics-induced fractured opinion within the NSG, China's fear of a shift in the Asian balance of power encouraged the NSG divide. China, wary of any emerging strategic partnership between India and the US, issued varying statements on the NSG nuclear waiver and strengthened the "Group of Six".<sup>14</sup> It took heavy-lifting diplomacy from George Bush to change the hardline position within the "Group of Six".<sup>15</sup>

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11. Mohammed El Baradei, "Press Statement on Board of Governor Approval of India Safeguards Agreement", IAEA, Vienna, (2008), <http://www.iaea.org/newscenter/news/2008/brief010808.html>. Accessed on May 22, 2012.; Indrani Bagchi: "India Enters Nuclear Club After High-Voltage Diplomacy", *The Times of India*, September 7, 2008, New Delhi, <http://timesofindia.indiatimes.com/world/europe/India-enters-nuclear-club-after-high-voltage-diplomacy/articleshow/3452272.cms?> Accessed on June 7, 2012.

12. Indrani Bagchi, "NSG Members' Domestic Compulsions Made it Tough", *The Times of India*, September 7, 2008, New Delhi, <http://timesofindia.indiatimes.com/world/europe/NSG-members-domestic-compulsions-made-it-tough/articleshow/3453729.cms?>. Accessed on May 7, 2012.

13. Wade Boese, "US-Indian Nuclear Deal Reaches NSG Brink", *Arms Control Association*, 2008, [http://www.armscontrol.org/act/2008\\_09/USIndia](http://www.armscontrol.org/act/2008_09/USIndia). Accessed on July 13, 2012.

14. Chris Buckley, "China State Paper Lashes India-US Nuclear Deal", *Reuters*, Beijing September 1, 2008, <http://in.reuters.com/article/2008/09/01/idINIndia-35260420080901>. Accessed on May 26, 2013,

15. Bagchi, n.12.



Outnumbered, China, reconsidering its own nuclear commercial interests, consented to the waiver.<sup>16</sup> Subsequently, at the second session held on September 6, 2008, the NSG finally agreed to issue the “clean waiver” for nuclear commerce with India, an NPT state with nuclear weapons.

For the IAEA safeguards agreement, India fulfilled the safeguards requisites with the announcement of the Separation Plan in May 2006. This was approved by the IAEA in June 2007.<sup>17</sup> Further, the Additional Protocol signed in 2009 was ratified by Narendra Modi’s government in June 2014.

### **ENTANGLED 123 AGREEMENT**

This section shows how the nuclear pact got entangled. India’s smaller win-set caused the nuclear negotiations and the nuclear pact to get entangled in its hawkish domestic politics. A series of events in India, the US and the NSG countries led to the nuclear pact getting entangled in hawkish domestic political positions. Criticisms about disparity in benefits, tenability of nuclear energy, limitations of the Light Water Reactors (LWRs) technology and strategic issues had been noted even before the nuclear pact was sealed in 2008.<sup>18</sup> These issues became sufficient factors to weigh down the UPA government from implementing the nuclear deal with the return of the 1984 Bhopal Gas Tragedy case in 2010, during the framing of the nuclear damage liability law. The protracted litigation induced India to pass the CLNDA in 2010. This was soon followed by the 2011 NSG’s new guidelines which effectively reversed the 2008 NSG’s “clean waiver”. The 2008 NSG’s “clean waiver” had earlier exempted India from the full-scope nuclear safeguards requirement for nuclear commerce.

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16. In 2007, as the 123 Agreement negotiations were being undertaken, India’s negotiators led by Anil Kakodkar went to China seeking nuclear fuel for India’s nuclear power reactors. This move by India showed to the U.S and China that the nuclear agreement would benefit not only the U.S. but also China as a member of the NSG once the NSG waiver for full-fledged nuclear commerce was put in place.

17. El Baradei, n.11.

18. L.K. Advani, “Deal is Anti-People,” Speech of L.K Advani in the Lok Sabha on the vote of confidence on July 21, 2008”, in Prabhat Jha, ed. *Indo-US Nuclear Deal: Why does BJP Oppose it?* (New Delhi: Bharatiya Janata Party, 2008); Prakash Karat, *et al*: “Implications of the Hyde Act for the 123 Agreement and for Self-Reliance in the Nuclear Sector: The Impact of U.S. National Laws on the 123 Agreement”, in *Left Stand on Nuclear Deal: Notes Exchanged in the UPA-Left Committee on India-US Civil Nuclear Cooperation* (New Delhi: Hari Singh Kang, 2008).

First, although the 2008 nuclear pact had benefits for both countries, the immediate benefits were skewed in favour of the US. Nuclear negotiations and domestic debates in India and US revealed that the nuclear pact had comparatively less benefits for India.<sup>19</sup> While the US stood to gain strategically as well as commercially, India's gain was normative and economically marginal, other than the lifting of the "nuclear apartheid", and nuclear commerce with the NSG.<sup>20</sup> For the US, commercially the deal promised big gains. The International Trade Administration, US Department of Commerce, estimated the deal to be worth at least \$100 billion.<sup>21</sup> Further, the deal was projected as having the potential to create thousands of highly skilled jobs for Americans over the next few decades.<sup>22</sup> Other than the lifting of the sanctions and resumption of nuclear commerce, including dual-use technology, the UPA government failed to project similar economic benefits or employment opportunities for India. Instead, it projected the nuclear pact as a move to secure energy security, sustain the growth rate and reduce dependence on costly oil import and polluting fossil fuel.<sup>23</sup> After the Fukushima nuclear meltdown in 2011, the

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19. Prakash Karat, "Press Statement of Prakash Karat, General Secretary, Communist Party of India (Marxist)", Communist Party of India (Marxist), 11, 2007, <http://www.cvim.org/content/prakash-karat-pms-statement>. Accessed on December 12, 2012; Advani, n.18.
  20. Fareed Zakaria, *The Post-American World* (New York: W. W. Norton & Company, 2008).
  21. Justin Rathke, "Growing Prospects for Sales of Civilian Nuclear Technology to India", International Trade Administration, Department of Commerce, United States of America, (2007): [http://trade.gov/press/publications/newsletters/ita\\_0207/india\\_0207.asp#continues](http://trade.gov/press/publications/newsletters/ita_0207/india_0207.asp#continues). Accessed on February 10, 2015.
  22. Jeffery T. Bergner, "A Reply to Concerning Congressional Review of the Recently Initialed US-India Agreement for Peaceful Nuclear Cooperation (the 123 Agreement: Questions for the Record submitted to Assistant Secretary Bergner by Chairman Tom Lantos", House Committee on Foreign Affairs, October 5, 2007 (Washington DC: United States Department of State, 2008); Bruce R. Josten, "Letter to Congress Supporting the US-India 123 Agreement", US Chambers of Commerce, October 1, 2008, <http://www.uschamber.com/issues/letters/2008/letter-supporting-us-india-123-agreement>. Accessed on March 19, 2011; Ron Somers, "The Way Forward: A Bright Horizon", *USIBC Report 2007-2008* (Washington DC: USIBC, 2008).
  23. Manmohan, Singh, "PM's Statement in Parliament on Civil Nuclear Energy Cooperation with United States", *Prime Minister of India: Dr Manmohan Singh, Speeches*, February 17, 2006, <http://pmindia.nic.in/speech-details.php?nodeid=47>. Accessed on June 2, 2012; Manmohan Singh: "PM's Statement in Parliament on Civil Nuclear Energy Cooperation with United States", *Prime Minister of India: Dr Manmohan Singh, Speeches*, February 27, 2006, URL: <http://pmindia.nic.in/speech-details.php?nodeid=47>. Accessed on June 2, 2012; Singh, Manmohan: "Statement of PM in Rajya Sabha on the India-US Nuclear Agreement", *Prime Minister of India: Dr Manmohan Singh, Speeches*, August 17, 2006, <http://pmindia.nic.in/speech-details.php?nodeid=355>. Accessed on February 8, 2013.

Congress Party virtually changed its approach to the nuclear pact.<sup>24</sup> The UPA government could not furnish tangible benefits for the common people of India for the nuclear pact to proceed further.

Second, the left parties and the BJP revealed the various limitations of the American LWRs. LWRs have been shown to have technological compatibility issues with India's three-stage nuclear programme. They pointed out that nuclear energy cannot be made central to India's energy security policy because of its prohibitive cost. According to the left parties' notes, which were presented at the UPA-Left Parties Committee meetings, electricity from imported reactors would be expensively priced between Rs. 4.60 to Rs 5 per unit. On the other hand, power from coal-fired power stations would be more economically priced between Rs. 2.20 to Rs. 2.60 per unit.<sup>25</sup> Further, they noted that energy from LWRs is more expensive than that from the domestic Pressurised Heavy Water Reactors (PHWRs). They estimated that one Megawatt (MW) of nuclear energy from LWRs would cost about Rs. 9 crore per as against Rs. 6.2 crore per MW from domestic PHWRs. They asked why the UPA government opted for a more expensive source of energy, with all the conditions that went against the national interests.<sup>26</sup> The UPA government argued that the tariff of nuclear energy is cost-effective and LWRs would be useful for India's energy security. It cited a study conducted in 2005, *Economics of Light Water Reactors in India*. But the emerging people's resistance to nuclear power plants over safety and livelihood issues, gradually led to the sidelining of the nuclear pact.

India's perpetual safeguards commitment without the assurance of strategic fuel supply was another concern shared by the political parties. The left parties and India's strategic analysts termed the nuclear pact as a strategic compromise that would reduce India to the status of a "subordinate ally" of the US.<sup>27</sup> The BJP leaders, on the other hand, demanded that the UPA government renegotiate the nuclear deal.<sup>28</sup>

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24. Mani Shankar Aiyar, "Mani-Talk: Calm Down. We're Welcoming a Lame-Duck President", *NDTV Opinion*, January 25, 2015, New Delhi, : <http://www.ndtv.com/opinion/mani-talk-calm-down-were-welcoming-a-lame-duck-president-733562>. Accessed on January 25, 2015.

25. Karat et al, n.19.

26. Ibid.

27. Prakash Karat et al, *Subordinate Ally: The Nuclear Deal and the India-US Strategic Relations* (New Delhi: LeftWord Books, 2007).

28. Advani, n.18.

Third, the Bhopal gas tragedy and its protracted litigation, forced the UPA government to make a volte-face on the nuclear pact. The UPA government passed the nuclear damage liability law in September 2010. This law, in an unprecedented move, makes the nuclear suppliers liable for any “patent and latent defect” in the nuclear materials supplied, while exempting the Nuclear Power Corporation of India Limited (NPCIL), the only nuclear operator in India. Sensing that the liability law had effectively become a deal-breaker, the Nuclear Damage Liability Rules 2011 (NDLR) were passed to limit the liability to Rs. 1,500 crore and the nuclear damage claim to 10 years.<sup>29</sup> By then, the law had effectively halted the nuclear pact and impaired India-US bilateral ties.

Fourth, in 2011, the NSG reversed its “clean waiver” for India. In June 2011, US Ambassador Timothy J. Roemer stated that the US “strongly and vehemently” still backed the NSG’s clean waiver for India.<sup>30</sup> Notwithstanding this statement, the June 2011 NSG guidelines issued by the NSG Plenary Session reversed the 2008 NSG’s “clean waiver”.<sup>31</sup> The NSG’s June 2011 guidelines, without naming India, asserted that for exemption from the full-scope safeguards requirement, a recipient country needed to comply with the NSG’s non-proliferation requirement. In other words, a full-scope waiver would be extended only to an NPT-signatory state. Political observers in India noted that without the approval of the US, the 2011 NSG guidelines could not have been issued.

The India-US nuclear pact that had been projected as the key to the strategic partnership between the oldest and biggest democracies and a major non-proliferation gain, thus, got entangled in the divergent American and Indian domestic politics. CLNDA 2010, influenced by the anti-American

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29. Ministry of Law and Justice, *The Civil Liability for Nuclear Damage Act, 2010* (New Delhi: Government of India, 2010); Department of Atomic Energy: *The Civil Liability for Nuclear Damage Rules, 2011* (New Delhi: Government of India, 2011).

30. Timothy Roemer, “US Ambassador to India Timothy J. Roemer Farewell Media Address at India Gate”, Embassy of the United States, New Delhi, June 30, 2011, <http://newdelhi.usembassy.gov/spr063011.html>. Accessed on January 28, 2015.

31. Siddhartha Varadarajan: “NSG Ends India’s ‘Clean’ Waiver”, *The Hindu* (New Delhi), June 24, 2011, <http://www.thehindu.com/news/national/nsg-ends-indias-clean-waiver/article2132457.ece>. Accessed on January 5, 2015.

industries' political environment, emerged as the main impediment in implementing the nuclear pact. CLNDA's Article 17(b) puts the onus of the nuclear damage liability on the suppliers. In the event of any accident, under the right to recourse, the NPCIL, after paying out the compensation, is entitled to claim damage liability from suppliers for patent or latent defects and sabotage to the plant.<sup>32</sup> A reciprocal non-proliferation policy by US in not budging from the "Administrative Arrangement" issues, added to the deadlock.

Despite these setbacks, Modi and Obama see the nuclear pact as a win-win agreement for both countries. In the long run, India stands to reap the advantages of the lifting of nuclear sanctions, "phased entry" into the NSG and the non-proliferation regime, and eventual emergence as a major power.<sup>33</sup> During the nuclear negotiations, the US succeeded in persuading India to vote against Iran for its clandestine nuclear programme at the UN.<sup>34</sup> But the US failed to secure India's commitment to the China-containment strategy or obtain India's signature to any of the non-proliferation regimes from the NPT to the Comprehensive Test Ban Treaty (CTBT). Instead, it earned the non-proliferation lobby charges of non-proliferation loss.<sup>35</sup>

The necessary cause for the emergence of the CLNDA and the stalling of the nuclear pact can also be traced to the Hyde Act. Prime Minister Manmohan Singh, speaking to the Rajya Sabha on August 17, 2006, described Sections 103 and 104 of the Hyde Act as "goalpost shifting" and the provisions on the non-proliferation requirement as "prescriptive

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32. n.29.

33. US Department of State, "Background Briefing by Administration Officials on US-South Asia Relations, March 25, 2005. *US State Department Archive*, available at <http://2001-2009.state.gov/r/pa/prs/ps/2005/43853.htm>. Accessed January 22, 2011.

34. Condoleezza Rice, "US-Indian Nuclear Cooperation: Security and Nonproliferation Implications Congressional Hearings", *US 109th Congress, Session 2nd, Senate Hearings*, Wednesday, April 5, 2006 (Washington DC: US Government Printing Press, 2006).

35. Robert J. Einhorn, "US-Indian Nuclear Cooperation: Security and Nonproliferation Implications", *Congressional Hearings, US 109th Congress, Session 1st, House of Representatives, House International Relations Committee, Hearings* (Washington DC: U.S. Government Printing Office, 2005).

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and extraneous issues”.<sup>36</sup> India pointed out that the prohibition on a nuclear test and the US’ right to ask for the return of the nuclear materials and technology supplied went against the assurances of the 2005 Joint Statement. India also maintained that the domestic laws of the US should not inhibit India’s sovereign right to conduct a nuclear test in its national interests due to the uncertainty of security in India’s nuclear-capable neighbourhood.

Hence, the rise of hawkish domestic politics led to the adoption of the stringent nuclear liability law which, in turn, stalled the nuclear pact. India’s smaller win-set was responsible for the emergence of hawkish domestic politics after the nuclear pact had been sealed in 2008. In other words, the UPA government felt India had comparatively less to lose even if the nuclear pact did not materialise immediately. India’s net gains from the nuclear pact are essentially normative and strategic benefits without the pressing needs associated with economic deals.

### **NUCLEAR CLUB, MAJOR POWER AND STRATEGIC PARTNERSHIP**

This section examines the assurances of the nuclear pact and how they have unfolded for India. India and the US share common interests or overlapping win-sets in three areas: India’s membership in the NSG, India’s rise as a major power and the forging of an India-US strategic partnership. The 2005 Joint Statement and the nuclear pact, therefore, envisaged a strategic partnership with India, to help India become a major power and admit it to the NSG and the non-proliferation regime.<sup>37</sup> These are unprecedented offers by the US to India in their 60 years plus relations which had largely been strained. The public opinion in India largely accepted the US offers to help

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36. Singh, n.22.

37. India-US 2005 Joint Statement, “Joint-Statement between President George W. Bush and Prime Minister Manmohan Singh”, Office of the Press Secretary, U.S. Department of State, July 18, 2005, Washington DC., <http://georgebush-whitehouse.archives.gov/news/releases/2005/07/print/20050718-6.html>. Accessed on June 28, 2009.

India get into the NSG and the non-proliferation regime.<sup>38</sup> The US offers of strategic partnership and help to make India a “major power” through the nuclear pact were rejected by the left parties and the BJP.

### STRATEGIC PARTNERSHIP

Discourses in the US refer to a rising China as the fundamental push factor for the nuclear pact and the strategic partnership.<sup>39</sup> Subsequently, the US Congress concluded that the nuclear agreement comprised more than non-proliferation or economic gains, and extended bipartisan support. India concurred with the July 2008 Lok Sabha trust vote and the 123 Agreement was sealed on October 10, 2008.

While the US’ strategic partnership intent is clear about its desire to allocate a balancing role to India in view of the rise of China, India has been ambivalent about this China-containment partnership.<sup>40</sup> A major factor driving this ambivalence is the tradition of strategic autonomy in India’s foreign policy. Notwithstanding this ambivalence, the strategic partnership has progressed steadily. Perhaps, India’s acquiescence to this role is because the strategic partnership accords India a central role in South Asia and the Asia-Pacific region. According to Senator John McCain, India and the US share three strategic interests. First, to develop South Asia as a region with secure, prosperous and democratic states. Second, to project a “preponderance of power in the Asia-Pacific region” for promoting “free markets and free societies”. Finally, to

**The public opinion in India largely accepted the US offers to help India get into the NSG and the non-proliferation regime.**

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38. G. Balachandran (2013) argues that India “does not stand to gain anything specific” from the getting into the NSG as a new member. On the contrary, India’s nuclear journey both strategic and civil had been stunted because of the technology denial regime. Getting access to dual-use technology, strategic fuel supply and advanced nuclear reactors are the advantages NSG membership entails. See: India and NSG, G. Balachandran (2013), “Approaches to Indian Membership,” IDSA Issue Briefs.

39. Carter, n.10.

40. Ashley J. Tellis, “Kick-Starting the US-Indian Strategic Partnership” Carnegie Endowment for International Peace, Washington DC, September 22, 2014, <http://carnegieendowment.org/2014/09/22/kick-starting-u.s.-indian-strategic-partnership>. Accessed on January 20, 2014

fortify a “liberal international order” which promotes and ensures peaceful growth and development of human rights.<sup>41</sup>

From the 2004 Next Steps in Strategic Partnership (NSSP) onwards, the India-US strategic partnership gradually gained clarity in direction, momentum and traction. Taking these steps forward, they signed the 2005 Defence Framework Agreement and the 123 Agreement which changed the parameters of their engagement.<sup>42</sup> The 2005 Joint Statement announced the nuclear pact, besides scores of other areas, from promoting trade and commerce and democracy to cooperation in science and technology. But post-2008 nuclear pact saw the rise of divergent geo-political interests and domestic political preferences, leading to major differences between the two countries. Notable among them were India’s MMRCa acquisition processes, the Ukraine crisis and India’s silence, the Devyani Khobragade affair and the CLNDA 2010.

The Modi-Obama summit diplomacy rebooted the strategic partnership. From the 2014 “*Chalein Saath-Saath*” Vision Statement to the 2015 “Declaration of Friendship”, the statements outlined the broad contours of engagement that the two countries are already undertaking. “Asia Rebalance”, the key theme of the US, has not changed. In this balancing strategy, the US stated that it accorded India the central role in the region.<sup>43</sup> The January 2015 summit diplomacy announced the resolution of the nuclear deadlock. It also renewed the 2005 Defence Framework Agreement. India and the US continue their cooperation in their bilateral efforts to promote democracy, combat terrorism, promote higher education, collaborate in science and technology and conduct joint military exercises, among others.

The India-US strategic partnership depends on how India can manoeuvre the complex balancing acts between its geo-political interests and domestic political preferences. In addition to the partnership with the US, the challenge

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41. Press Trust of India, “India, US Must be Committed to a True Strategic Partnership: John McCain”, NDTV World, June 27, 2014, Washington DC, <http://www.ndtv.com/world-news/india-us-must-be-committed-to-a-true-strategic-partnership-john-mccain-581646>. Accessed on January 7, 2015.

42. Chintamani Mahapatra, “India-US Strategic Dialogue: An Assessment”, *Strategic Analysis*, vol. 37 no.6, 2013, pp. 675-80.

43. Embassy of the United States of America, “The Fifth Round of the US-India Strategic Dialogue”, New Delhi, July 2014, [http://newdelhi.usembassy.gov/strategic\\_dialogue.html](http://newdelhi.usembassy.gov/strategic_dialogue.html). Accessed on January 7, 2015.



of Russia and China ganging up comes as a serious strategic balancing dilemma. Membership offers by Russia and China in the Asia Pacific Economic Cooperation (APEC) and the Shanghai Cooperation Organisation (SCO) are tempting offers which India could not resist. Foreign Minister Sushma Swaraj's China visit in February 2015 and the declaration that India would seek an "inclusive security system in the Indo-Pacific Theater" and not be driven by the "Western-led China-containment policy" is a reflection of India's ambivalence.<sup>44</sup> Russia and China offered India membership in the APEC and SCO as a counter-balance to the India-US strategic partnership.

### *Major Power*

Although George Tanham doubted India's strategic culture, independent India nursed a great power aspiration and had worked towards achieving it.<sup>45</sup> It rallied around numbers for security and growth. The 1946 Asian Relations Conference, a precursor to the Non-Aligned Movement (NAM) was the beginning of this initiative. India's leadership and membership of the NAM was a conscious decision to escape the costly bipolar balancing politics. By the late 1970s, India had been described as an "emergent power". After the post-reforms period, the world saw India as an "emerging power".<sup>46</sup>

Post-Pokhran II, the US saw India as an alternate balancing pole in the region and offered to help it become a "major power".<sup>47</sup> Realising that its great power aspirations are not complete without access to high-technology; India accepted the offer to help it become a major power with two caveats: it would retain its strategic autonomy; and, it wants an increase in trade and technology transfers. There are two challenges to India's rise as a major power through the US help. First, India has a doctrine-equivalent preference for strategic autonomy in the conduct of its foreign policy. India's foreign policy priority is for strategic autonomy since independence has kept it away from any formal

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44. Press Trust of India, "Caution Needs to be Exercised on India's NSG Inclusion: China", *The Times of India*, January 25, 2015, Beijing, <http://timesofindia.indiatimes.com/world/china/Caution-needs-to-be-exercised-on-Indias-NSG-inclusion-China/articleshow/46020682.cms>. Accessed on January 7, 2015.

45. George K. Tanham: *Indian Strategic Thought: An Interpretive Essay* (California: National Defense Research Institute, 1992).

46. P. Stephen Cohen, *India: Emerging Power* (Washington, D.C: Brookings Institution Press, 2001).

47. n.3.

alliance. During the nuclear negotiations, the US expected India's commitment to a strategic balancing role.<sup>48</sup> India, however, declined an open declaration of the China-countervailing role in the Asia-Pacific region. Instead, it voted against Iran at the UN, its long-time ally in the Middle East.

Second, India and the US, notwithstanding their "natural allies" status as democracies, and as states facing the challenges of terrorism, have comparatively limited areas and depth of cooperation. The US is India's largest trading partner and one of the states with the largest Foreign Direct Investment (FDI) in India. On the other hand, for the US, India was its 11th largest trading partner, 18th largest export destination and 10th largest supplier of goods to the US in 2013.<sup>49</sup> China and the US have far bigger trade volumes even though they have strong suspicions about each other motives.

Given this asymmetry in fundamental interests, India's expectations from the US to transfer high-end technology related to defence and security matters without a strong strategic partnership are unlikely to be realised.<sup>50</sup> The path to evolution as a great power requires substantive proficiency in defence and security technology. The gestation period of indigenous technology in India is extremely long to go on its own. Access to this high-end technology is essential for India to emerge as a major power. For instance, the conceptualisation and development process of the Tejas, India's Light Combat Aircraft (LCA) has been going on since 1983. Induction of this aircraft into an active battle ready service format is still far from reality. The first squadron of this LCA comprising 20 aircraft would be inducted only by 2017-18.<sup>51</sup> Delays and cost overruns are the major issues dogging India's defence industries, whether from the Defence Research and Development Organisation (DRDO) or Hindustan Aeronautics Limited (HAL).

The India-US nuclear pact underlined the fact that the key to India's emergence as a major power is getting access to high-end technology, the

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48. Carter, n.10.

49. US Trade Representative, "US-India Bilateral Trade and Investment", Office of the United States Trade Representative, Washington, D.C. 2014, <https://ustr.gov/countries-regions/south-central-asia/india>. Accessed on January 6, 2015.

50. Tellis, n.40.

51. Dinakar Peri, "Operational LCA Still Years Away", *The Hindu*, January 20, 2015, New Delhi, <http://www.thehindu.com/news/national/operational-lca-still-years-away/article6804951.ece>. Accessed on January 6, 2015.

technology denied by the nuclear non-proliferation regime. Among other reason, due to the India-US symmetric status as democracies with the preponderance of the rule of law, the US does not see India's rise as a threat to its interests. Both, however, see China's rise as a threat to the region and the world. The two states, thus, share convergence of win-sets in strategic interests.

### *NSG Membership*

The US had stated that it would help India get into the nuclear club. The NSG membership enrolment process for India has been initiated. However, as a multilateral regime with the consensus-rule in its decision-making, India's NSG membership will depend upon how India and US rally the NSG members to balance between the normative ideals of the regime and their strategic and commercial interests. As a buyers' market, the 2008 NSG's "clean waiver" for India was driven by high-diplomacy, strategic and commercial interests' logic. The 2005 Joint Statement and the 2008 nuclear pact, assumed India's compliance with the non-proliferation regime. India's IAEA safeguards and its reiteration on the voluntary moratorium on nuclear tests brought about the NSG's "clean waiver". Under the present circumstances, India's entry into the NSG is likely to take the same route it took for the 2008 NSG waiver: diplomacy, strategic and commercial interests.

To take this process forward, following Obama's 2010 statement to consider India's NSG membership, a note from the US entitled "Food for Thought" was circulated to the NSG members championing India's membership. To consider India's membership, the note suggested two approaches: (1) "revise" the existing NSG membership criteria; or (2) only "consider" the existing criteria for new membership instead of making it a requirement.<sup>52</sup> Hindered by the divergent domestic politics and the stalling of the nuclear pact, the process has not made any significant step beyond the "Food for Thought". Meanwhile, critics have launched opposition to the membership process for India as a non-proliferation loss. Denouncing the

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52. Richard J.K. Stratford, "United States Communication – "Food for Thought," Paper on Indian NSG Membership", *Point of Note Contact, NSG Confidential, United States Department of State*, Washington DC, May 20, 2011. <https://www.armscontrol.org/system/files/nsg1130.pdf>. Accessed on January 6, 2015;

**Except the NPT membership obligation, India has, by and large, fulfilled all the stipulated criteria for NSG membership at the moment.**

India-US nuclear pact, John Kimball, an American non-proliferation lobbyist stated that strategic and commercial interests are factors which have been hurting the NSG and the non-proliferation regime.<sup>53</sup>

Except the NPT membership obligation, India has, by and large, fulfilled all the stipulated criteria for NSG membership at the moment. The issue will need to go beyond the two options suggested by the “Food for Thought”: “revise” and “consider”.

Considering the consensus rule, India’s NSG membership will depend on how India and the US handle the issues raised by China and other NSG states. Existing NSG membership criteria stipulate that the new members should: (a) “be able to supply the items on the NSG control lists; (b) adhere to, and act in accordance with, the guidelines; (c) be supportive of international efforts towards the non-proliferation of weapons of mass destruction and of their delivery vehicles; (d) be a party to, and in full compliance with, the obligations of the NPT and various nuclear weapon free zone treaties; (e) and have in force a comprehensive safeguards agreement with the International Atomic Energy Agency (IAEA)”.<sup>54</sup>

As long as India-US strategic and commercial interests were on the same wavelength, the NSG’s waiver was “clean”. Post-CLNDA, the 2008 NSG’s “clean-waiver” saw a clear policy reversal. The new NSG guidelines issued in June 2011 refer to NPT membership as the new criteria for “clean waiver”.<sup>55</sup> Nonetheless, the Modi-Obama diplomacy has shown that India and the US can overcome domestic differences and honour international commitments

53. Daryll Kimball, “Indian Membership in the NSG? A Bad Idea Whose Time Has Not Come”, *Arms Control Now, The Blog of the Arms Control Association*, June 23, 2011, [https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=9&cad=rja&uact=8&ved=0CE0QFjAI&url=http%3A%2F%2Farmscontrolnow.org%2F2011%2F06%2F23%2FIndian-membership-iin-the-nsg-a-bad-idea-whose-time-has-not-come%2F&ei=DrfUVKvcNITkuQTLiIg&usg=AFQjCNFDI8X\\_Yn4N9qZ67S8hjsWepxoR9g&sig2=xLyXOPLbTohcMmqAZmLc0A&bvm=bv.85464276,d.c2E](https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=9&cad=rja&uact=8&ved=0CE0QFjAI&url=http%3A%2F%2Farmscontrolnow.org%2F2011%2F06%2F23%2FIndian-membership-iin-the-nsg-a-bad-idea-whose-time-has-not-come%2F&ei=DrfUVKvcNITkuQTLiIg&usg=AFQjCNFDI8X_Yn4N9qZ67S8hjsWepxoR9g&sig2=xLyXOPLbTohcMmqAZmLc0A&bvm=bv.85464276,d.c2E). Accessed on January 6, 2015.

54. Kimball, n.53.

55. Siddhartha Varadarajan, “NSG Ends India’s ‘Clean’ Waiver”, *The Hindu*, June 24, 2011, (New Delhi), <http://www.thehindu.com/news/national/nsg-ends-indias-clean-waiver/article2132457.ece>. Accessed on January 5, 2015.

too. India's NSG phased entry will depend on how the politically unencumbered majority government of the Modi government honours its commitments in the nuclear pact and promotes common strategic interests. Dispensing generic goodwill and fulfilling international commitments are the key ingredients of a statesman to enlarge the win-set.

### MODI-OBAMA EQUATIONS

Do the two leaders have the capabilities to take the nuclear pact to its logical conclusion?

After Modi's US visit in September 2014, the buzzword in the diplomatic circles was that Modi and Obama share a personal "chemistry". President Obama's Deputy National Security Adviser Benjamin J. Rhodes, hoped that the "chemistry and the personal relations between the two leaders can lead to positive outcomes".<sup>56</sup> Persistence and consistency are essential ingredients of diplomats. The Modi-Obama diplomacy clocked about five meetings in a span of five months since they first met in September 2014 at Washington, D.C. till the January 2015 summit. Three other meetings took place in Myanmar, Japan and Australia in 2014. The latest meeting in 2015 in New Delhi led to the breakthrough in the nuclear pact imbroglio. Eventually, their gritty determination paid off.

The quantum and quality of the diplomatic meetings are said to indicate the focus and commitment of the leaders to reach their targets. The India-United States Contact Group, set up to discuss the nuclear pact in June 2014, met at least three times to enable the two leaders to announce the activation of the nuclear pact. The 2014 Vision Statement and the Delhi Declaration of Friendship are essentially repackaging of the substantive issues in which they have earlier agreed to work together. Now the two have found convergence of interests in disarmament and non-proliferation issues.

**As long as India-US strategic and commercial interests were on the same wavelength, the NSG's waiver was "clean". Post-CLNDA, the 2008 NSG's "clean-waiver" saw a clear policy reversal.**

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56. Ellen Barry: "Unlikely 'Chemistry' Benefits Both Obama and Modi", *The Hindu*, January 23, 2015, New Delhi, <http://www.thehindu.com/news/national/unlikely-chemistry-benefits-both-obama-and-modi/article6815376.ece?ref=relatedNews>. Accessed on February 9, 2015.

Further, unlike George Bush, whose term was at its fag end when the 123 Agreement was signed, Obama and Modi have more time and political mandate to oversee the implementation of the nuclear pact and the strategic partnership. Obama's presidency will go on till 2016 while Modi will be prime minister in a BJP-majority Lok Sabha until 2019, giving them two years to work together on the tasks set out in the nuclear pact. Unlike Manmohan Singh, whose allies in the left parties challenged the nuclear pact, Modi does not confront any internal party or legislative issues.<sup>57</sup>

The Modi-Obama diplomacy underlined the need for their strategic partnership and the US promise to help India become a 'major power'. NSG membership for India, however, will be an uphill task, considering the consensus rule of the NSG working system and India's status as an NPT-outlier state. During his second India visit, President Obama stated that India had fulfilled the criteria of the Missile Technology Control Regime (MTCR) and NSG, and so the US supported the inclusion of India into the four non-proliferation regimes. Reacting to this, China issued an ambivalent statement. Hua Chunying, China's Foreign Ministry spokesperson stated that China supports the "discussion" and "inclusion" of India as a NSG member "if it meets all the requirements".<sup>58</sup>

## CONCLUSION

Estranged India and the US have become "natural allies" and are engaged in a "partnership of the 21st century". Convergence of win-sets following the restructuring of the international balance of power and India's shift

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57. Sujatha Singh, foreign secretary, was replaced by S. Jaishankar after she had differences of opinion on foreign policy with the Prime Minister's Office. According to news reports, Singh preferred the traditional approach on Israel, while Prime Minister Modi wanted improved relations with Israel and Denmark. See Indrani Bagchi, "Why PM Narendra Modi was Unhappy with Former Foreign Secretary Sujatha Singh", *The Times of India*, January 30, 2015, (New Delhi). Accessed on January 9, 2015 [Online: Web] URL: <http://timesofindia.indiatimes.com/india/Why-PM-Narendra-Modi-was-unhappy-with-former-foreign-secretary-Sujatha-Singh/articleshow/46059940.cms>

58. Press Trust of India, "Caution Needs to be Exercised on India's NSG Inclusion: China", *The Times of India*, January 25, 2015, Beijing, <http://timesofindia.indiatimes.com/world/china/Caution-needs-to-be-exercised-on-Indias-NSG-inclusion-China/articleshow/46020682.cms>. Accessed on January 7, 2015.

from a primarily autarkical economy to a global economy has brought them closer. Thereafter, the 2008 nuclear pact made this partnership possible by resolving two issues bedevilling India-US relations. First, the US does not target India as a “non-proliferation concern” any longer. Second, India’s “anomalous nuclear status” has been accorded a new definition of a state with advanced nuclear technology with impeccable non-proliferation credentials. Along with this paradigm shift, the nuclear agreement assured India the benefits and advantages, as accorded to the NPT-nuclear weapons states, for undertaking the responsibilities as such states. Toward this, the “chemistry” and personal relations between Modi and Obama helped to resolve the liability and safeguard issues stalling the nuclear pact.

The India-US 2008 nuclear pact is technically a civilian nuclear agreement but it opens a wider scope of benefits by resolving the thorny issues besieging their relations. Although it is unlikely to provide energy security even after many years, it opens the opportunity for access to nuclear materials and related technology in the defence and security areas as well. Getting access to these technologies, which can help India realise its great power aspiration, was the principle driving force behind the nuclear pact. In the US calculation, once India acquires great power capability, its sheer size would have the desired effect of providing a countervailing force to a rising China. As the nuclear negotiations progressed, the US gave up its insistence on India’s commitment to this balancing role in the Asia-Pacific region.

‘Chemistry’ and personal relations in the Modi-Obama diplomacy were crucial in breaking the deadlock posed by the liability and intrusive safeguard issues. It took about five months and five meetings between Modi and Obama, aided by at least three contact group meetings between June 2014 and January 2015, to resolve the deadlock. India’s great power aspirations and NSG membership will require more intensive bilateral and multilateral engagements. As the 123 Agreement opened a flurry of similar offers as well as the “clean waiver”, India’s route to NSG membership could be its projection as a vast and compelling nuclear energy market which no NSG member can ignore. As Putnam noted, domestic politics and diplomacy are always entangled. The India-US nuclear pact was possible

due to the overlapping win-sets. Driven by their overlapping interests, in an unprecedented move, their divergent domestic issues have been set aside for common strategic interests.

The India-US nuclear pact is an agreement caused by broad overlapping win-sets on the geo-political and domestic fronts. The deal got entangled temporarily in India's domestic liability laws and the US insistence on intrusive tracking of its fuel besides the IAEA safeguards. India's win-set size shrank due to the safety and liability issues informed by the Bhopal gas tragedy. Fukushima and the 2011 NSG guidelines further shrank India's win-sets. Yet, the Modi-Obama diplomacy realigned the shifting and incongruent win-sets to activate the stalled nuclear deal. Going by the 'chemistry' and personal rapport between the two leaders, India and the US can look forward to more robust relations, from nuclear cooperation to a deeper strategic partnership.