

# **Implications of South Asian Nuclear Developments for U.S. Nonproliferation Policy**

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July 12, 2016

Although the United States has consistently advocated halting the proliferation of nuclear weapons globally for more than four decades, its implementation of nonproliferation policy has at times been held hostage to regional priorities and other foreign policy priorities. A key question for practical policy formulation is how U.S. nonproliferation policy can be configured to accommodate regional circumstances within a global regime without losing focus on nonproliferation objectives. This paper argues broadly that global approaches to nuclear nonproliferation are still preferable, and specifically that objectives should be redefined toward a policy of enhancing nuclear security and away from traditional notions of “nonproliferation.”

## **Nuclear dynamics in South Asia**

The current developments regarding fissile material production, numbers, capabilities, platforms, and concepts for using nuclear weapons in South Asia are inherently destabilizing. Both India and Pakistan have increased production of fissile material for nuclear weapons and are developing new platforms and doctrines for using nuclear weapons. This spiral of increasing capabilities makes multilateral nuclear arms control unlikely for the foreseeable future. In this context, waiting for movement on global measures like a Fissile Material (Cutoff) Treaty or ratification of the Comprehensive Nuclear Test Ban Treaty (CTBT) is riskier than attempting to find regional solutions.

Under President George W. Bush, the U.S. government simultaneously sought global restrictions on uranium enrichment and spent fuel reprocessing in response to revelations about the nuclear black market developed by Pakistani scientist A.Q. Khan, while undermining global restrictions on enrichment and reprocessing that developed as a

response to India's 1974 nuclear test. In its support for creating an exception to the Nuclear Suppliers Group (NSG) guidelines ban on trade with non-NPT member states for India, the Bush administration miscalculated Pakistan's response and China's support of Pakistan. A regional approach would seek to balance capabilities, interests, and threats, but all the Bush administration managed to do was to favor one country over the other. In doing so, it arguably contributed to a fissile material production race in South Asia. Extending nuclear cooperation to India allowed India to use its domestic uranium for weapons programs while importing uranium to fuel its electricity reactors and gave Pakistan a convenient excuse for ramping up its fissile material production for weapons.

What's more, the U.S.-India deal did little to "bring India into the mainstream of nonproliferation," a publicly stated objective of the Bush administration. While India is observing nonproliferation regime guidelines like Australia Group, Missile Technology Control Regime (MTCR), and NSG guidelines, and is abiding by a nuclear test moratorium, there is only the smallest likelihood that India will really get behind a Comprehensive Test Ban Treaty (CTBT) and a Fissile Material Cutoff Treaty (FMCT) on its own. In addition, its tepid support for nuclear security and its anemic Additional Protocol speak volumes about its commitment to the nonproliferation regime.

Because it views China as its adversary, India likes the decoupling from Pakistan, which allows it more flexibility to build up to China's capabilities. Unfortunately, this gives Pakistan every incentive to develop ever-more destabilizing capabilities. For its part, Pakistan obviously doesn't like the decoupling and wants for itself what India has received, particularly an exemption from NSG guidelines. At same time, Pakistan is heavily engaged in destabilizing fissile material production, development of tactical nuclear weapons, and destabilizing nuclear weapons use policies, including developing the potential to use tactical nuclear weapons to de-escalate a conventional conflict it could not possibly win.

### **Global U.S. nuclear nonproliferation objectives**

In general, U.S. nuclear nonproliferation objectives include reducing the security and nonproliferation risks of nuclear material and capabilities through support and

strengthening of international regimes. This includes the Nuclear Nonproliferation Treaty (NPT), the Nuclear Suppliers Group (NSG), nuclear-weapon-free-zones (NWFZs), UN resolutions, and the International Atomic Energy Agency (IAEA). Although the United States has long advocated universal membership in the NPT, this goal is impractical. In practice, the United States cannot hope to achieve universal membership of the NPT, not just because India and Pakistan refuse to join the NPT as non-nuclear weapon states (NNWS), but also because of Israel and North Korea. In short, the rollback of the nuclear weapons programs of Israel, India, and Pakistan is all but forgotten, and policymakers are rapidly moving in that direction with respect to North Korea. One question that U.S. policymakers have probably not asked themselves is whether participation by India and/or Pakistan would strengthen or weaken the Nuclear Suppliers Group. NSG membership at this point seems like a bargaining chip, but it is not clear what the quid pro quo is. Public statements from Indian officials give the impression that NSG membership is the natural outcome of the 2008 NSG exemption. It is entirely unclear how this position evolved, however, since membership was not openly discussed in the run-up to the 2008 exemption.

Another key U.S. global nonproliferation objective that is relevant to South Asia is the goal of limiting the spread of enrichment and reprocessing capabilities through a variety of policy tools. Equally, if not more important, is the negotiation of a treaty to halt the production of fissile material for weapons (FMT) and a comprehensive nuclear test ban treaty (CTBT) to limit nuclear weapons capabilities (both also have disarmament benefits, especially if FMT includes stocks). A fissile material treaty may be the only way to get all enrichment and reprocessing in India and Pakistan under international safeguards.

For context, consider that the 2006 Hyde Act described U.S. nuclear nonproliferation objectives as follows:

- *Oppose development of a capability to produce nuclear weapons by any NNWS, within or outside the NPT;*
- *Encourage NPT parties to interpret NPT Article IV rights as applying only when consistent with nonproliferation objectives and safeguards compliance;*

- *Adhere to NSG guidelines;*
- *Strengthen NSG guidelines/decisions;*
- *Further restrict enrichment and reprocessing, including to India; and*
- *Prevent nuclear trade to countries if such trade violates our own laws.*

### **U.S. nonproliferation objectives with respect to South Asia**

As noted above, rolling back Indian and Pakistani nuclear weapons programs is no longer a practical nonproliferation objective for U.S. policy. Instead, U.S. policy is likely to focus on keeping India and Pakistan from further proliferating their WMD capabilities through bilateral pressure (e.g., export controls) or assistance. Another goal is to keep India and Pakistan from developing regionally destabilizing nuclear capabilities and approaches (doctrine). In more traditional terms, this would be called stemming “vertical proliferation.” Nonetheless, U.S. policy still seems to support capping Indian and Pakistani WMD capabilities via halting fissile material production for weapons (FMT) and nuclear testing (to include transparency, CBMs, treaties, etc.). And finally to this agenda we may add bringing India into the nonproliferation mainstream. Looking ahead, the U.S. agenda should at least encourage India to be a responsible nuclear supplier if it seeks to export civil nuclear technologies and/or equipment. This could include some uncomfortable conversations about the desire not to export the heavy water moderated reactors that are the staple of India’s domestic nuclear power program. Should India realize its goal of commercially deploying fast breeder reactors, discussions about responsible supply there should also be a U.S. objective.

Interestingly enough, the 2006 Hyde Act also described objectives for U.S. nonproliferation policies specifically towards South Asia. (These are condensed and shortened for clarity here). Those that are marked by an asterisk (\*) have not been met.

- *Achieve a moratorium on fissile material production by India, Pakistan, and China;\**
- *Conclude a treaty at the earliest possible date to ban the production of fissile material for nuclear weapons, which the U.S. and India would join;\**

- *Secure India's full participation in the Proliferation Security Initiative (PSI) and commitment to Statement of Interdiction;\**
- *Get India to publicly announce its conformity to export control laws, regulations, and policies of Australia Group and Wassenaar Arrangement;*
- *Get India to ratify the Convention on Supplementary Compensation for Nuclear Damage;*
- *Get India to fully support/participate in U.S. nonproliferation efforts vis-à-vis Iran*
- *Seek to halt increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination;\**
- *Ensure that India's nuclear spent fuel is not returned to United States;*
- *Encourage India not to increase its production of fissile material at unsafeguarded facilities.\**

Beyond certain safeguards requirements (e.g., separation plan, Additional Protocol), the Hyde Act actually required India to do the following before the exemption would go into effect:

- *Active work on early conclusion of FMCT*
- *Work/support the United States on efforts to prevent the spread of enrichment and reprocessing*
- *Enact/enforce comprehensive export controls, harmonize with MTCR and NSG, adhere to MTCR and NSG.*

It is fairly clear that no one verified that Indian efforts in these areas met the Hyde Act requirements before Congress acted again to endorse the U.S.-India nuclear deal.

### **Role of China in this mix**

Given the triangular dimension of China in the South Asian nuclear equation, it is hardly surprising that U.S. policy should focus on how China could help or hurt efforts to meet nonproliferation objectives there. U.S. policy has focused on keeping pressure on China to curtail trade with Pakistan that improves its nuclear weapon delivery systems (e.g., submarines), and getting China to adhere to NSG guidelines regarding nuclear supply to

Pakistan. However, the seriousness of those efforts is hard to discern from outside government. What is clear, however, is that the United States last year rewarded China with a renewed 123 agreement (nuclear cooperation agreement) that grants consent to reprocess, despite China's blatant violation of NSG guidelines in continuing and expanding its nuclear trade with Pakistan.

### **Accommodating regional circumstances within a global regime**

There is nothing in the NPT that precludes regional approaches to nonproliferation, arms control, or disarmament. In fact, Article VII of the treaty states that "Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories." Although considered a relative backwater of mainstream nonproliferation policy, nuclear weapons free zones have played an important role in some regions to provide additional assurances (e.g., Treaty of Tlatelolco). Bilateral safeguards agreements like the Argentine-Brazilian Accounting Agency (ABACC) are less prevalent, although ABACC is often trotted out as a model for emulation. U.S.-Russian arms control has, for decades, acted as a stand-in for the first step towards nuclear disarmament, both for practical and symbolic reasons.

In some respects, the NSG exemption for India proves the point that in some cases, bilateral agreements may have to precede changes in global norms. For example, the U.S.-India deal was absolutely a prerequisite for creating an exception to NSG guidelines for India. Finally, there have been many examples in the past of efforts to encourage transparency, confidence-building measures, and or voluntary measures as a stepping stone toward longer-term results.

In my view, however, a regional NWFZ in South Asia or a bilateral arms control agreement between India and Pakistan is not in the cards. It is hard to see how a U.S.-Pakistani nuclear deal could support U.S. nonproliferation objectives either in the region of South Asia or globally.

## **Other Options**

As we approach the fiftieth anniversary of the NPT (in 2020), there is likely to be significant dissatisfaction with the grand nuclear bargain of nonproliferation for nuclear disarmament. While the NPT has been successful in its nonproliferation quest, the treaty has had no impact at all on disarmament. Although neither India nor Pakistan engage in these discussions, India's criticism of the NPT as a discriminatory treaty is well-known.

One approach to folding India and Pakistan into global norms is to abandon the traditional distinctions between nuclear arms control, nonproliferation, and disarmament, and change the way we talk about these issues. In framing the debate in terms of nuclear risk reduction, it may be possible to make smaller but more tangible progress, putting aside criticisms of discrimination in the nonproliferation regime. Two small steps would be for India and Pakistan to start reporting on civil plutonium holdings under INFCIRC/549 and for centers of nuclear security excellence in both countries to engage in cooperation and collaboration on training. Although a fissile material treaty is potentially far off into the future, the participation of Pakistan and Indian (and Chinese) scientists in international efforts regarding verification of fissile material stocks would be a welcome development.