

# India, the NSG, and the Chinese Impasse

Written by Reshmi Kazi

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RESHMI KAZI, JUL 20 2016

The Nuclear Suppliers Group's (NSG) plenary meeting of June 2016 ended at Seoul with an impasse over India's admittance to the nuclear export club. The reason was, primarily, China's truculence on the issue. Although the Chinese position is not entirely surprising, what appears questionable are the arguments forwarded by Beijing to negate India's entry into the NSG. China associated India's candidature to several conditions, flagging the Indian refusal to sign the nuclear Non-Proliferation Treaty (NPT), linking India's membership to that of Pakistan, and placing presumptions about an impending strategic imbalance in South Asia.

In order to examine the credibility of the conditions attached by China to India's proposed NSG admission, one must begin by assessing the basic ethos that went into the making of the NSG and India's relations with the group.

### India and the NSG

Following the conduct of India's Peaceful Nuclear Explosion (PNE) in May 1974, a consensus emerged that the NPT (adopted in 1968) alone was not adequate to halt the proliferation of nuclear weapons and technology. Thus, the necessity to go beyond the NPT was felt, and the NSG was established that year. Meanwhile, in October, the French company, SGN, was contracted by the Pakistan Atomic Energy Commission (PAEC) for the construction of a 100 Mt facility capable of separating 100-200 kilograms of plutonium annually. Since France was not an NPT signatory, it had no obligations to restrain its nuclear commerce. However, the French association with the NSG, despite its non-NPT status, led to the termination of its controversial nuclear agreement with Pakistan in 1978. Eventually, the NSG became a dedicated platform to preclude and stop illegal transfers of nuclear material, equipment, or technology. At present, the 48-member group operates through established guidelines adopted by consensus after appropriate data exchange and deliberations on proliferation concerns. The conditions that an aspirant government must fulfil for entry are specified in the NSG's Procedural Arrangement.

In 2008, India was granted the NSG waiver that removed the country's nuclear *trade* restrictions, ending a three-decade old denial and facilitating India to legally trade civilian nuclear fuel and technology with the global nuclear regulatory regime. The waiver also set the foundations to 'discuss the NSG[s] relationship with India' at the group's annual plenary meetings. On November 8, 2010, Barack Obama pledged the US' support to India's admission into the NSG. By the 2011 plenary meet of the NSG, the question of India's membership found the US' endorsement even on formal communiqués. A 2011 communication paper to the NSG from the US, titled 'Food for Thought,' explicitly called for accommodating India's NSG bid and labelled India 'a "like-minded" partner.' The paper, most essentially, argued that the 'factors [of the NSG's Procedural Arrangement for considering admissions] "should be considered by participating governments" and are not mandatory criteria that *must* be met by any proposed candidate for NSG membership.' It clearly emphasized that the 'Procedural Arrangement does not require that a candidate meet all of the stated criteria,' including the signing of the NPT. This is what sharply contrasts the Chinese position on the issue, which binds India's NSG application to a formal acceptance of the NPT.

The essence of the NSG's establishment is to identify and accept states that recognize the importance of preventing nuclear proliferation as critical. Its core concern is that the participating governments (or members) must exhibit like-mindedness on being 'supportive of international efforts towards the non-proliferation of WMDs and their delivery vehicles, and have in force a legally-based domestic export control system which gives effect to the commitment to

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act in accordance with the guidelines.’ In other words, the intent is to ‘permit [...] full membership of countries that have demonstrated responsible non-proliferation and export control practices, and the ability and willingness to substantially contribute to global non-proliferation objectives.’ Accordingly, India is well-eligible for entry into the club.

## China’s Objections

The Chinese opposition to India’s NSG bid is not too shocking. After all, Beijing had played a forceful role in the unsuccessful attempt to impede the 2008 NSG waiver to India. It has, this time, played a successful role in blocking India’s admission to the NSG. China chiefly stymied India’s bid on the basis of its non-adherence to the NPT, calling the treaty the ‘bedrock of the international non-proliferation regime.’ While adherence to the NPT may be a procedural requirement for NSG admission, it is merely prescriptive and not binding, as explained above. With this understanding, successive plenary meetings of the NSG have ended with divided opinions on new memberships.

The Chinese insistence on India’s signing of the NPT is a non-starter, as, in India’s view, the NPT has flawed foundations that discriminate between nuclear ‘haves’ and ‘have-nots’. This fundamental defect in the NPT conflicts with the non-proliferation objectives that India stands for. For India, an equitable mechanism that endorses and sustains shared responsibility towards a time-bound, universal disarmament must be the NPT’s predominant objective. However, the NPT, as it exists, is devoid of such essentials, and propagates a nuclear apartheid between nuclear and non-nuclear states. Irrespective of the NPT’s discriminatory status, nonetheless, the NSG acknowledged that India contributes to the ‘widest possible implementation of the provisions and objectives of the Treaty on the Non-Proliferation of Nuclear Weapons,’ as enunciated in Paragraph 1(a) of the 2008 Indo-US Statement on Civil Nuclear Cooperation. Thus, logically, there exists no fundamental friction between India’s and the NPT’s intentions, if not objectives.

China has, likewise, unfairly linked India’s NSG entry with Pakistan. This is more of a tactical move initiated with the aim to scuttle India’s multilateral aspirations. Unlike India, Pakistan demonstrably has a poor proliferation record and lacks enough nuclear legitimacy. Unlike India’s, Pakistan’s nuclear program has not received any waiver from the NSG, which is a strong indicator of a state’s responsible nuclear conduct. Not only does the US suspect that remnants of the notorious network promoted by Pakistan’s nuclear spearhead, AQ Khan, may still be alive, but several Pakistani military entities continue to be under on the ‘ban list’ of the US Department of Commerce. Pakistan’s continuing ambiguity on the AQ Khan issue, its controversial nuclear commerce with China, and its reticence on the Fissile Material Cut-off Treaty (FMCT) generate major concerns for global non-proliferation efforts.

Thus, India’s non-proliferation record cannot be brushed with the same stroke as that of Pakistan’s. India has consistently contributed to the strengthening of initiatives for the improvement of nuclear security at both domestic and international levels. For instance, it backed the Comprehensive Nuclear Test Ban Treaty (CTBT) by declaring a moratorium after its 1998 nuclear tests – a stand maintained till date. More notably, India agreed to extend full cooperation on the negotiations of the FMCT as part of the Indo-US Civil Nuclear Agreement. Hence, India must not be hyphenated with Pakistan in terms of non-proliferation commitments and ambitions.

Lastly, China has asserted that India’s admission to the NSG ‘would shake the strategic balance in South Asia’ and ‘Pakistan’s strategic interests will be threatened.’ Here, it must be emphasized that India’s NSG bid, in today’s era of Sustainable Development Goals, is ‘not about an arms race and it’s not about nuclear weapons. [It] is about the peaceful civil use of nuclear energy.’ India shoulders the world’s fourth-largest requirement for power. About a third of its population still remains without power, as the thermal-hungry nation quests for alternate energy sources. However, both China and Pakistan have failed to understand such factors.

## Does India Qualify?

India has actively upheld the NSG’s guidelines for nuclear and nuclear-related exports. It was India’s will to maintain its effective non-proliferation commitments under the Indo-US Civil Nuclear Agreement that facilitated its achievement of the 2008 NSG waiver. India’s ratification of the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material; adherence to the International Convention for the Suppression of Acts of Nuclear

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Terrorism (ICSANT) of 2005; harmonizing of its Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) list with that of the NSG; enacting of the Weapons of Mass Destruction (WMD) and Delivery Systems Act, 2005, an 'overarching and integrated legislation prohibiting unlawful activities in relation to WMDs and their delivery systems'; and upholding of obligations under the UN Security Council's Resolution 1540 to prevent proliferation of all WMDs constitute important steps towards the mitigation of international proliferation risks.

Additionally, India has voluntarily agreed not to transfer enrichment and reprocessing (ENR) technology to non-ENR states – an initiative not even specified in the NSG's criteria for participation. To prevent black-marketing, India has set up a Counter Nuclear Smuggling Team to counter individuals or groups seeking to obtain nuclear or radioactive material for malevolent purposes. It is also setting up a specialized School on Nuclear Security under the aegis of the Global Centre for Nuclear Energy Partnership (GCNEP) to impart training and education in areas of physical protection of nuclear materials and technology. Undoubtedly, India's legal-institutional nuclear mechanism is one that conforms to the NSG's core essence.

### **Conclusion**

China's opposition in this regard appears a systemic attempt at discrimination against India – a visibly responsible nuclear power. The Chinese state, while blocking India's NSG candidature on the grounds of non-adherence to the NPT, has itself shown disregard for the recent International Court of Justice verdict over the South China Sea logjam in favour of Philippines. Nevertheless, it is important for India and China to engage more maturely and proactively in the interest of larger global non-proliferation goals. The two nuclear powers, with a declared no-first-use policy each, hold immense potential to mutually collaborate and improve nuclear security in Asia, especially South Asia. However, for that to happen, China must, at its end, rise above petty politics, and take cognizance of India's nuclear status as well as its potential to benefit the international non-proliferation regime.

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