

## In the Shadow of Sanctions? US–India Relations and the S-400 Purchase

Written by Aniruddha Saha

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<https://www.e-ir.info/2021/01/29/in-the-shadow-of-sanctions-us-india-relations-and-the-s-400-purchase/>

ANIRUDDHA SAHA, JAN 29 2021

In October 2018, and in spite of warnings from the US of the imposition of sanctions, India made a USD 5 billion deal with Moscow to purchase 5 units of the Russian-made indigenous Triumph S-400 air defence system. Russia confirmed that India had made the first tranche of payment of USD 800 million in November 2019 with the aim of delivering the first batch of S-400 air defence systems by the end of 2021. Following the June 2020 clashes between the Chinese and Indian forces on the Line of Actual Control, India had requested Russia to expedite the delivery of the first batch of S-400 defence systems. With the US announcing sanctions on Turkey in December 2020 over the latter's identical defence purchase, this brought into question whether the US would place similar sanctions on India. This looming decision of putting India under sanctions against the buying of Triumph S-400 Russian missile defence systems re-instates the history of U.S. nuclear sanctioning against India, and underlines their bi-lateral relationship being forged in perpetual ambivalence.

Under the India-US bilateral Agreement on Civil Uses of Atomic Energy in 1963, the US had agreed to help build India's first power reactor in Tarapur and supply low enriched uranium fuel for the Tarapur power reactor till 1993. Post the 1974 Indian nuclear test, the US suspected that the supply of uranium was being diverted for the weaponisation of India's nuclear programme, rather than harnessing nuclear energy for peaceful purposes.

After India's first underground nuclear test in 1974, US Secretary of State Henry Kissinger responded by arguing that "public scolding would not undo the event" and "[w]e were opposed to proliferation." The Chairman of the US Atomic Energy Commission, Dixie Lee Ray also wrote to the Chairman of the Indian Atomic Energy Commission (IAEC), Homi Sethna, reminding Sethna that the US understanding of the 1963 agreement did not allow India to use any technology or material supplied by the US for a nuclear explosion.

The US gradually started adopting a more stringent position by rallying other states to build onto the August 1974 agreement by the Zangger committee in creating a 'trigger list' of items that would not be exported to non-signatories of the NPT (Treaty on the Non-Proliferation of Nuclear Weapons), such as India. This also led to the incorporation of the trigger list in establishing the Nuclear Suppliers Group (NSG). Furthermore, the US was followed by countries like Canada, Japan, and Sweden in sanctioning and shaming India, while the latter defended the nuclear test as being "peaceful" for harnessing civilian uses of nuclear energy.

In response to India's nuclear test, then US Deputy Secretary of State Kenneth Rush stated that "[t]he Indian test is a setback to non-proliferation; we had made it clear to the Indians that we opposed a test by them, even one labelled as in this instance a peaceful nuclear explosion". The US legislation also invoked the Nuclear Non-Proliferation Act (NNPA) of 1978 on India that "authoriz[es] the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies."

By extending the NNPA, the Nuclear Regulatory Commission rejected any further nuclear fuel supplies to Indian reactors at Tarapur with the Senate voting 46-48 on the disapproval resolution. While in 1980 the Carter administration briefly approved a shipment of 38 tons of low-enriched uranium to India, all US nuclear exports to

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India were soon cut off under the NNPA.

Post India's five nuclear tests in 1998 and in order to choke the Indian economy, the US Clinton administration invoked the Arms Export Control Act (AECA) and the Export-Import Bank Act to curb most foreign assistance, terminate the sale of US defence goods, deny US credits and loans, oppose any financial assistance that India would request from international financial institutions, etc. More specifically, the Glenn Amendment to Section 102 of the AECA allowed the President to invite sanctions on a non-nuclear weapons state (as defined by the NPT) — if the state in question is deemed to have detonated a nuclear explosive device.

The US also asked other G-8 countries to impose their own sanctions and withheld aid worth USD 143 million to India. In view of the 1998 nuclear tests, President Clinton remarked that the US was in “categorical opposition” to the tests and India had committed “a terrible mistake” that “create[s] a dangerous new instability in the region.” In fact, India was very close to permanently cementing a *rogue* identity for itself in nuclear governance as a former US policy advisor in the State Department, Robert Manning, remarked that India was now on the pathway of being “a rogue democracy.” Also, post the 1998 nuclear tests, The Washington Post famously carried a column titled, “INDIA CHEATED.”

Unlike the 1974 nuclear test, India did not justify the 1998 tests as “peaceful” but rather declared itself as a nuclear weapons state and in August 1999, a draft report from the National Security Advisory Board laid down the official Indian nuclear doctrine — based on no-first use and minimum deterrence policy. However, in response to the US reactions on 1998 nuclear tests, Indian Prime Minister, Vajpayee wrote to the Clinton administration that the reason that had forced India to go nuclear was the “deteriorating security environment, specially the nuclear environment.” Scholars have also argued that the hesitancy of India to become a nuclear weapon state post the 1974 test, can be credited to the non-violent struggle against British colonial rule during Indian independence.

The stringent US sanctions on India persisted until the October 1998 Congressional approval of the first Brownback Amendment to the earlier imposition of the Glenn Amendment. By using the first Brownback Amendment (also known as the India-Pakistan Relief Act 1998), President Clinton waived off certain economic sanctions on India and Pakistan for a period of one year. Subsequently, the Congress passed the second Brownback Amendment that allowed the President to extend the waiver for the next five years, with President Bush ultimately calling for a permanent removal of all sanctions on India in 2001 relating to the 1998 nuclear tests.

In 2003, India and the US issued a joint agreement that tried to “re-define the U.S-India relationship” in terms of “democracy, common principles, and shared interest.” In the following years, the US signed the 123 agreement with India and recognised India's de-facto nuclear status, in spite of the latter being a non-signatory to the NPT. Recently, India and the US held 2+2 talks to speak about greater cooperation in the areas of space, energy, and geo-spatial information sharing.

With the US already warning India of sanctions because of the latter's purchase of the Russian-made indigenous Triumph S-400 air defence system, the India-US relationship risks re-setting the clock back to pre-2001. Also, because of the often re-emerging bi-lateral anxiety, the India-US relationship has been described as “notoriously insecure”, “not proceeding to its maxima” and covered in “mutual frustration.”

The S-400 is seen as one of the world's most advanced long-range surface-to-air missile systems and can engage all types of aerial targets (36 of them simultaneously) within an altitude of 30km and a range of 400km. This not only poses a threat to the F-35s — America's most expensive weapons system as a fifth-generation stealth fighter — but the S-400 also remains a more advanced long-range surface-to-air missile system than the American developed Terminal High Altitude Area Defense (THAAD). Furthermore, the purchase of the S-400 air defence system advantages the balance of air power in areas where it is stationed, provides India air security against a hostile neighbourhood, and serves as a strategic counter to China's own purchase of the Russian S-400 technology.

The recent threat of sanctions on India by the US underline that even though the 123 Agreement had recognised India's nuclear programme since the latter's refusal to sign the NPT in 1968, India still remains far from permanently

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cementing an unproblematic relationship with the US. Another thing to note is also the change of response from India in responding to the US threat of sanctions. Unlike the 1998 nuclear tests, when Vajpayee wrote a letter to the Clinton administration *explaining* the reasons of the tests, India's response to the threat of sanctions from the US has rather been re-instating that "India has always pursued an independent foreign policy [that] also applies to [India's] defence acquisitions and supplies...guided by [India's] national security interests."

Finally, the recently de-classified US Strategic Framework for the Indo-Pacific re-iterates the policy of the US administration in using India as a counter-weight against Chinese ambitions. However, the way the US manages its response towards India against the latter's Russian S-400 deal, can be key in playing out this framework. If the Biden administration were to invite sanctions, this would potentially deteriorate American leverage in South Asia via the Indian partnership, and roll back the recent progress in India-U.S. relations. Alternatively, if India was granted an exemption, questions would be raised on American national security, the potential encouragement that the exemption would provide to other states engaging in similar defence deals in the future, accountability towards an Indian preferential treatment, and automatically contribute to further deterioration of US relations with Turkey.

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