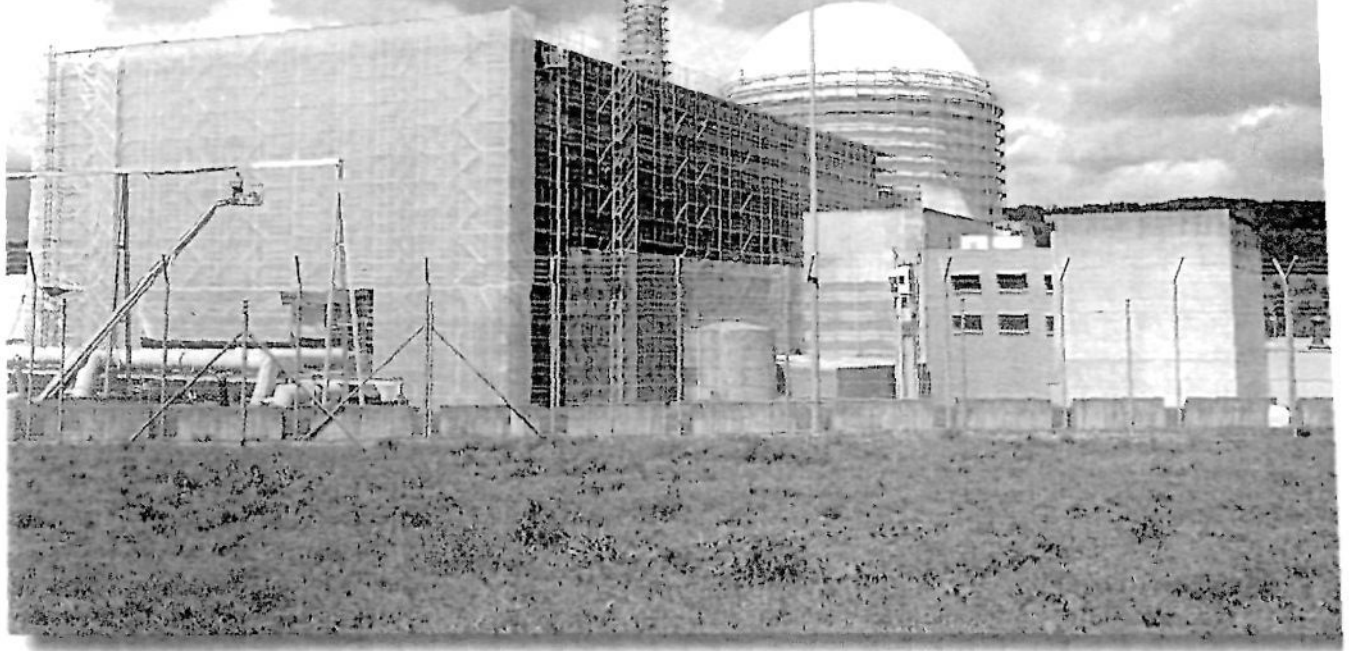


THE FUTURE OF US-INDIA NUCLEAR CO-OPERATION



A 500 MW prototype nuclear power station at Kalpakkam, India

Sagarika Dutt suggests that the October 2008 'deal' has strengthened the nuclear non-proliferation regime.

On 10 October 2008, India and the United States signed the 123 Agreement for co-operation between the two countries in the field of the peaceful uses of nuclear energy, a few days after President Bush had signed the deal into law in the United States.¹ This was the culmination of a process that began over three years ago and gave rise to intense diplomatic and political debate. The agreement will allow India access to nuclear reactors, fuel and technologies from the United States after a gap of 34 years. Washington had terminated nuclear co-operation with India back in 1974 after New Delhi had conducted a nuclear test in the Pokhran desert in Rajasthan. It makes India the only country in the world able to pursue civil nuclear trade with other willing nations even though it has not signed the Nuclear Non-proliferation Treaty (NPT) of 1968. This article explains how this

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'deal' has affected domestic politics in India and argues that the issue is not just about promoting strategic co-operation between the United States and India but is also about strengthening the nuclear non-proliferation regime.

India has not signed the NPT and the Comprehensive Test Ban Treaty (CTBT) but has declared a voluntary moratorium on nuclear testing. India's nuclear programme started in the 1960s. It conducted nuclear tests in 1974 and 1998 which prompted Western countries, including the United States, to impose sanctions on it. Because of India's 'pariah' status for not signing these treaties its nuclear power programme has developed largely without fuel or technological assistance from other countries. India's nuclear energy self-sufficiency extended from uranium exploration and mining through fuel fabrication, heavy water production, reactor design

and construction, to reprocessing and waste management. Nuclear power supplied around 3 per cent of India's electricity in 2007-08, and it is envisaged that this will increase to 25 per cent by 2050 as imported uranium becomes available and new plants come on line. India is also developing technology to utilise its abundant reserves of thorium. It is estimated that India has 290,000 tonnes of thorium reserves, which is about one-quarter of the world's total reserves.²

Joint statement

Co-operation between the United States and India in the field of civilian nuclear energy has been a controversial issue right from the start. Building on the Next Steps in Strategic Partnership (NSSP), a process started by the BJP government, India's present Prime Minister, Manmohan Singh, and President George Bush

The rapid growth of the Indian economy has prompted the Indian government to address the issue of energy security. In October 2008 India and the United States signed the 123 Agreement for co-operation in the field of civilian nuclear energy, after three years of negotiations. The US-India nuclear deal has given rise to controversy in both India and the United States, although for different reasons. But the agreement promotes strategic co-operation between the two countries and also strengthens the nuclear non-proliferation regime, which is an on-going concern in the United States.

released a joint statement dated 18 July 2005. They asserted that 'as leaders of nations committed to the values of human freedom, democracy and the rule of law, the new relationship between India and the United States will promote stability, democracy, prosperity and peace throughout the world'. This sweeping statement is followed by a further emphasis on their 'common values and interests', which will form the basis of efforts 'to create an international environment conducive to [the] promotion of democratic values' and 'to combat terrorism relentlessly'. The statement then gives a list of fields in which the two countries will co-operate. They are the economy; energy and the environment; democracy and development; non-proliferation and security; and high technology and space.³

A key action point is to 'support and accelerate economic growth in both countries through greater trade, investment and technolog[ical] collaboration'. In the field of energy and the environment, the statement made it clear that the US-India Energy Dialogue would address issues such as energy security and sustainable development. The two leaders agreed on the need 'to promote the imperatives of development and safeguarding the environment' and 'commit to developing and deploying cleaner, more efficient, affordable and diversified energy technologies'.

Discussions between Bush and Singh also addressed the issue of non-proliferation of weapons of mass destruction, and Bush expressed the opinion that 'as a responsible state with advanced nuclear technology, India should acquire the same benefits and advantages as other such states'. He also promised that he would work to achieve full civil nuclear energy co-operation with India as it pursues its goals of promoting nuclear power and achieving energy security.

Presidential undertaking

In this context the President gave an undertaking to secure the US Congress's agreement to adjust US laws and policies and also work with 'friends and allies' to 'adjust' international regimes and address the issue of fuel supplies for safeguarded nuclear reactors at Tarapur expeditiously. Co-operation between the two countries is based on the understanding that there will not be any diversion of nuclear fuel and technology away from civilian purposes or to third countries without safeguards. These understandings were to be reflected in a safeguards agreement to be negotiated by India with the International



Indian Prime Minister Manmohan Singh and President George Bush

Atomic Energy Agency (IAEA).

The Indian Prime Minister promised that India would assume the same responsibilities and practices as other countries with advanced nuclear technology, such as the United States. These would involve identifying and separating civilian and military nuclear facilities and programmes in a phased manner and filing a declaration regarding its civilian facilities with the IAEA. This was considered necessary because the Indian nuclear power programme began as an undifferentiated programme and the strategic programme is an offshoot of this research. However, Indian authorities claim that 'identification of purely civilian facilities and programmes that have no strategic implications poses a particular challenge', and this has necessitated the drafting of a separation plan by the Indian authorities that will identify the civilian facilities to be offered for safeguards in phases.

The range of undertakings made by the Indian government included taking a decision to place voluntarily its civilian nuclear facilities under IAEA safeguards; signing and adhering to an additional protocol with respect to civilian nuclear facilities; continuing India's unilateral moratorium on nuclear testing; working with the United States for the conclusion of a multilateral fissile material cut off treaty; refraining from the transfer of enrichment and reprocessing technologies to states that do not have them and supporting international efforts to limit their spread; and ensuring that necessary steps have been taken to secure nuclear materials and technology through comprehensive export control legislation and through harmonisation and adherence to

the Missile Technology Control Regime (MTCR) and Nuclear Suppliers Group (NSG) guidelines.

Stiff opposition

However, the United Progressive Alliance (UPA) government faced stiff opposition at home. The Left parties, on whose support the UPA government depends, felt that the Indo-US Joint Statement was a 'continuation of the pro-United States shift' in Indian foreign policy and a deviation from both the policy of non-alignment and the Indian government's Common Minimum Programme. The CPI-M politbureau expressed scepticism about the references to spreading democracy and combating terrorism and expressed its concerns about making alliances with the United States 'at a time when the superpower has become notorious for its unilateralist and anti-democratic activities'. The CPI-M was aggrieved that the government had not discussed its views and proposals with all the parties concerned before deciding on the course of action. The party's leaders felt that the present government was continuing the 'undemocratic practices' of the erstwhile National Democratic Alliance (NDA) regime, which had promoted secret negotiations between Strobe Talbott and Jaswant Singh on security and foreign policy issues. The CPI-M also made it very clear that it was in favour of an independent nuclear policy and pointed out that 'India had always opposed the discriminatory policies of the nuclear haves and have-nots... [and] was also committed to nuclear disarmament and making the world free of nuclear weapons', adding that the Rajiv Gandhi plan for disarmament was

the last major initiative taken in this regard.⁴

The CPI-M was concerned that the United States would impose restrictions that would hamper the development of an independent Indian nuclear technology policy for peaceful purposes and research activities for overcoming reliance on imported nuclear fuel. The CPI-M was also unhappy that the US administration had not recognised India as a nuclear weapons power (merely as a state with advanced nuclear technology) and had not supported its claim for a permanent seat in the UN Security Council. It asserted that the NDA regime had accepted a 'junior partnership' with the United States and the much publicised Indo-US Defence Framework was based on this asymmetrical partnership. It also wanted to know what the United States had got in return for offering India civilian nuclear co-operation and urged the government to clarify whether there was an understanding about buying US defence equipment to the tune of billions of dollars. There may well be a grain of truth in these allegations as India has recently stepped up defence collaboration with the United States. It has recently signed 'its biggest-ever military deal' with the United States for eight long-range maritime reconnaissance aircraft for the Indian navy for \$2.1 billion and there are other plans in the pipeline.⁵

Further expansion

In March 2006, during President Bush's visit to India, another joint statement was released expressing 'satisfaction with the great progress the United States and India have made in advancing our strategic partnership to meet the global challenges of the 21st century' and the intention to 'expand even further the growing ties between [the] two countries'. The joint statement put emphasis on economic prosperity and trade, energy security and a clean environment and also global safety and security. On the issue of nuclear co-operation the statement 'welcomed the successful completion of discussions on India's separation plan' and looked forward to the full implementation of the commitments made in 2005. It also welcomed the participation of India in the ITER initiative on fusion energy as an important step towards the common goal of full nuclear energy co-operation. But there were several anti-American demonstrations during Bush's visit, which indicated that some sections of the Indian public did not sup-



Indian Foreign Secretary Shyam Saran

port American foreign policy and considered that Bush was not welcome in India.

In March 2006 the US government circulated a statement in the NSG proposing to adjust NSG Guidelines with respect to India to enable full civil nuclear co-operation.⁶ But there was considerable opposition to the proposed co-operation between the two countries in the United States. The nuclear non-proliferation lobby expressed its disapproval of the discussions taking place between the United States and India and opposed the legislation that had been introduced in the Congress to amend US laws to enable co-operation between the two countries. Critics of the initiative argued that civilian nuclear co-operation with a country that has not signed the NPT would seriously undermine it and the global nuclear non-proliferation regime.⁷

Policy defence

In July 2006, Indian Foreign Secretary Shyam Saran defended the India-US joint statement of 18 July 2005. He said that 'few other joint statements have been dissected in as much detail as this one', adding, 'what is so special about the 18 July joint statement that it warrants an analysis even a year later? Is it in any way a defining document of our contemporary diplomacy?' But at the same time, he also accepted that it departs from India's 'orthodox positions' on important issues.⁸ Although not mentioning India's traditional policy of non-alignment, Saran admitted that the era of defensive diplomacy was over. 'If India is to become a credible candidate for permanent membership of the Security Council, then we must adjust our traditional positions. Our foreign policy must reflect our national aspirations and express our confidence as an emerging global player'. He pointed out that American strategic assessments of India articu-

lated in the National Security Strategy of March 2006 and the Quadrennial Defence Review Report of February 2006 describe India as a major power shouldering global obligations and as a key actor, along with China and Russia, in determining the international security environment for the 21st century.

It seems that non-alignment is becoming an obsolete concept as the Indian economy is expanding and economic considerations are beginning to outweigh all

other considerations. Better relations with the United States is in India's national interest. The United States is India's largest trading partner, an important investor in the Indian economy and source of technology. Improved ties with the United States could accelerate India's growth rate and the process of development. For the United States, India is currently one of the fastest growing export markets. Both countries realise that a technological partnership with the United States would enormously benefit a country like India, whose future is so tied to the knowledge and service industries. The Americans also have respect for Indian democracy, and the two countries have similar stands on terrorism and security threats from non-state actors.

Pre-eminent power

In the field of international relations, the Indians consider the United States to be 'the pre-eminent power of our times' that can shape global opinion in India's favour. India 'requires adjustments in the international order so that [its] aspirations are accommodated'. Saran believes that 'the challenge to Indian diplomacy... is to maximise the gains while minimising the costs, and create an international environment that is supportive of [its] developmental goals'. India needs to overcome the factors that are hampering the growth of the Indian economy. These factors include inadequate infrastructure and energy security.

The dialogue with the United States is addressing these problems. For example, as a result of post-18 July discussions, India has been able to finalise Indian participation in the FutureGen initiative, dealing with clean coal, and the Integrated Ocean Drilling Programme, dealing with gas hydrates. The joint statement of 18 July has also enabled Indian participation in

the ITER fusion energy initiative. India has now joined a select group of countries (the European Union, France, Russia, China, Japan and South Korea) to collaborate in an area that will benefit India enormously.⁹

Limited access

A structurally disadvantaged Indian government feels that technology denial regimes, led by the United States and other advanced countries, need to be dismantled. India's access to nuclear technology and equipment was limited after 1974 on the grounds that most advanced nuclear technologies have dual uses. Apparently, in the 1980s a Cray super-computer for better weather forecasting was denied to India, since it could conceivably be used in its nuclear programme as well. While India's nuclear isolation had encouraged indigenous innovation and led to outstanding achievements by Indian scientists in the past, an increasingly globalised and competitive world demands a different response today. As the Indian economy matures, and the country moves towards an ever more sophisticated knowledge and technology driven society, more co-operation is needed with other countries. This will also create opportunities for Indian scientists and technologists to benefit from regular interaction with their counterparts in the rest of the world. But the Indian government has also made very clear that it would not agree to any restrictions on India's strategic programme, nor does it expect any assistance from its international partners.

While the US government was considering amendments to US laws to enable full civil nuclear energy co-operation with India, the 18 July 2005 Joint Statement and the Separation Plan were tabled in the Indian Parliament by the Prime Minister on 7 March 2006. The final version of the Separation Plan was presented to Parliament on 11 May 2006. This plan contained a schedule for placing India's nuclear reactors under safeguards beginning from 2007. The Indian Prime Minister



R.S. Sharma, chairman of India's largest power utility, NTPC, and Dr S.K. Jain, chairman of the National Power Corporation of India, sign an agreement in Mumbai on 14 February 2009 to set up nuclear power plants. Below: they exchange texts



also made a statement in the Rajya Sabha on 17 August and in the Lok Sabha on 23 August 2006 that emphasised that 'anything that went beyond the parameters of the July 18 Joint Statement would be unacceptable to India' and that 'India will not place its nuclear facilities under safeguards until all restrictions on India are lifted'.¹⁰ In an interview with *India Today*, the Prime Minister argued that nuclear power is critical to India's energy security 'if we want to be a world power'. He also expressed faith in President Bush, who, in his opinion, of all the US presidents has shown the greatest friendliness towards India. Based on a recent foreign policy review, the Indian government has come to the conclusion that in a globalised world relations with the United States need to be given the highest importance.¹¹

Waiver grant

Meanwhile, the Henry J. Hyde United States-India Peaceful Atomic Energy Co-operation Act of 2006, better known as the Hyde Act, was passed by both houses of the US Congress in December 2006. Its purpose was to grant the US adminis-

tration a waiver from Section 123 of the Atomic Energy Act of 1954 to enable the US administration to resume nuclear commerce with India. The text of this Act makes it very clear that it is based on the principle of nuclear non-proliferation. It begins with the statement that 'It is the sense of Congress that... preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy' and goes on to say that 'sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation... is the keystone of United States non-proliferation policy'. The Act categorically states that

any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nucle-

ar proliferation or regional arms races and maximises India's adherence to international non-proliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG).

Under section 104 of the Act, the US President is required to report to appropriate Congressional committees on the progress made by India in discharging its obligations as identified by the Act. Amongst other things, the President is asked to provide 'a description of the steps taken to ensure that proposed United States civil nuclear co-operation with India will not in any way assist India's nuclear weapons program'. Most crucially, he must provide 'a description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons', as well as the steps the US government is taking to encourage India to declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

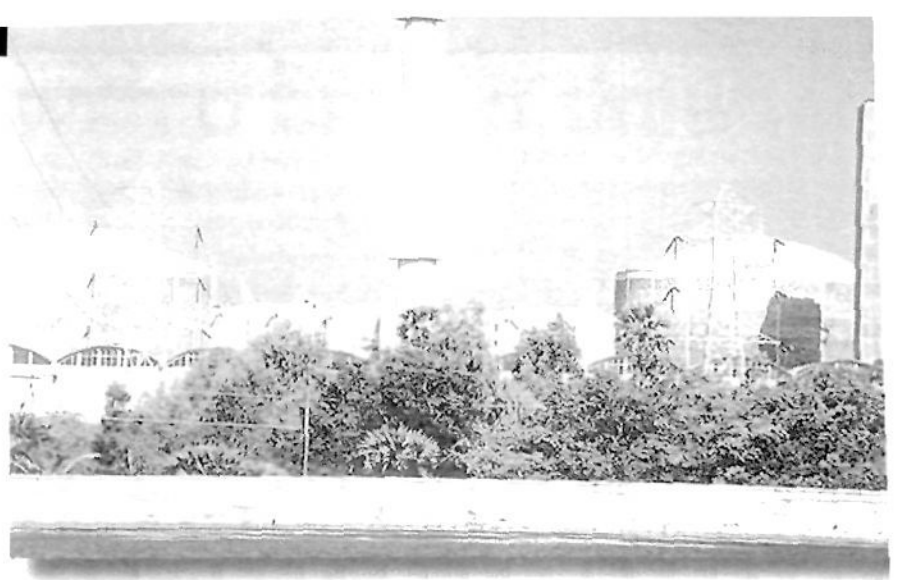
Important regime

The nuclear non-proliferation regime is one of the most important regimes in international relations today. The NPT of 1968, which prohibits nuclear weapon states from transferring nuclear weapons to non-nuclear weapon states and from assisting or encouraging them to acquire nuclear weapons, is the cornerstone of this international regime. However, India has always maintained that this treaty is discriminatory. The definition of regimes as sets of implicit or explicit 'principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area'¹² creates the impression that regimes are based on a consensus. In reality they are often the product of difficult and intense negotiations and bargaining, that lead to critical compromises among the negotiating parties.¹³ Furthermore, the possibility of challenges to existing regimes cannot be ruled out as India's stance and more recently Iran's nuclear policy have shown.

Ironically, the Act asks the US administration to 'secure India's full and active participation in United States efforts to dissuade, isolate, and if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction'. International regimes are not static; they evolve and with the passage of time may become less consistent internally. A critic of regime analysis points out that interests and power relationships are the proximate and not just the ultimate cause of behaviour in the international system.¹⁴ This is the reason there has been so much opposition to the nuclear deal between India and the United States in Indian political circles.

123 agreement

In mid-2007 an agreement for co-operation between the Indian and US governments concerning the peaceful uses of nuclear energy, also known as the 123 Agreement, was finalised. In the carefully negotiated text the two parties recognise 'the significance of civilian nuclear energy for meeting growing energy demands in a cleaner and more efficient manner.' It emphasises the importance of achieving energy security 'on a stable, reliable and predictable basis'. While this and strengthening the strategic partnership between the two countries are the main purpose of the agreement, the focus is equally on the prevention of the proliferation of weapons of mass destruction and support for the objectives of the IAEA and the safeguards system.



A nuclear power plant in Tamil Nadu state

However, the agreement does not 'hinder or otherwise interfere with any other activities involving the use of nuclear material, non-nuclear material, equipment, components, information or technology and military nuclear facilities produced, acquired or developed by them independent of this agreement for their own purposes'. Indian political elites felt that the 123 Agreement was more favourable to them than the Hyde Act.

Opposition challenge

In July 2008 opposition parties attempted to bring Manmohan Singh's government down. All of these parties are completely against the nuclear deal for reasons that will be explained below. The opposition even accused the government of bribing MPs to vote in its favour. After some dramatic scenes in the Lok Sabha, the government won the vote of confidence on 22 July. A triumphant Prime Minister hit out at his political opponents and accused the BJP supremo, L.K. Advani, of promoting communal violence and the Left parties of trying to exercise a veto over government decision-making. He reiterated that the agreement with the United States would end India's isolation and enable it to trade with the United States, Russia, France and other countries but without any external political interference in the nation's strategic nuclear programme. Attempting to assuage his political opponents' fears, the Prime Minister asserted that India's strategic autonomy will never be compromised.

But Prakash Karat, the CPI-M General Secretary, insisted that the nuclear deal was 'against the interest of the country' and vowed that the 'CPI-M will continue the struggle against the Indo-US nuclear deal'.¹⁵ He believes that 'to make India's foreign policy and strategic autonomy hostage to the potential benefits of nuclear

energy does not make sense except for the American imperative to bind India to its strategic design in Asia'.¹⁶ However, the Prime Minister emerged victorious from this fracas and his government proceeded to seek the blessings of the IAEA. On 1 August the 35-member IAEA Board of Governors unanimously approved an India-specific safeguards agreement.¹⁷ Thereafter, following weeks of speculation, nervousness and uncertainty in India, the 45-nation NSG granted a waiver to India on 6 September allowing it to participate in global nuclear commerce, and ending 34 years of India's nuclear isolation.

Voluntary moratorium

The NSG's deliberations had taken longer than anticipated as several countries (China, Austria, Ireland and New Zealand) had expressed reservations. However, while India's External Affairs minister, Pranab Mukherjee, was trying to convince the NSG that India would continue to observe a voluntary moratorium on nuclear testing, that it had a no-first use nuclear weapons policy and that 'India has a long-standing and steadfast commitment to universal, non-discriminatory and total elimination of nuclear weapons', at home the UPA government insisted that India retains sovereign rights to conduct nuclear tests. This was echoed by the US Ambassador to India, David Mulford,¹⁸ and also by India's former President Kalam, who asserted, in an interview with NDTV in September 2008, that India will always have the right to test in the supreme national interest. But both the Hyde Act and the 123 Agreement make it very clear that if India did go down this road it might have to pay a heavy price.

With a new administration in office in the United States, the Indian government can no longer count on their special friendship with George Bush. Moreover

President Obama, who had not initially supported the 123 Agreement and as a senator had attempted to amend the Hyde Act,¹⁹ has already made it very clear that non-proliferation and the reduction of nuclear weapons will be one of his key aims and he wants a deal with Russia to achieve this.²⁰ As American security expert Ronald Lehman says, the agreement between the United States and India is 'an opportunity to strengthen a nuclear non-proliferation regime that is suffering from its own internal weaknesses' such as inadequate enforcement and an inability to engage effectively the non-parties to the NPT. Bringing India into a more comprehensive regime of nuclear non-proliferation would help to reduce the dangers associated with weapons of mass destruction.²¹ China, too, was integrated into the non-proliferation regime as a stakeholder when it was admitted into the NSG and was allowed to conduct nuclear commerce under safeguards.²² But political considerations should not make us lose sight of the fact that the Indian nation needs nuclear power. With a population of over 1.2 billion and a rapidly expanding economy, India is struggling to meet its energy demands and cannot afford to ignore the nuclear option.

resources and the environment (Ithaca, 1989), p.22.

14. Krasner, op.cit.
15. *Statesman*, 23 Jul 2008.
16. P. Karat, *Subordinate Ally, The nuclear deal and India-US strategic relations* (New Delhi, 2007), p.32.
17. See also 'India safeguards agreement signed', 2 Feb 2009, www.iaca.org/NewsCenter/News/2009/indiaagreement.html.
18. 'India has sovereign right to conduct N-tests: Mulford', *Statesman*, 11 Sep 2008.
19. Arati R. Jerath, 'Letter clue to Obama's India policy', *Daily News and Analysis*,

7 Nov 2008; S. Varadarajan, 'Promise and pitfalls of Obama's South Asia policy', *The Hindu*, 27 Jan 2009.

20. 'President Obama seeks Russia deal to slash nuclear weapons', *Times Online*, 4 Feb 2009.
21. 'Testimony by the Honourable Ronald F. Lehman II on US-Indian nuclear energy cooperation: Security and non-proliferation, before the United States Senate Committee on Foreign Relations, Wednesday, November 2, 2005', SD-419.
22. K. Subrahmanyam, 'We're not a rogue state', *Times of India* (Chennai), 3 Sep 2008.



NOTES

1. *The Statesman* (Kolkata), 12 Oct 2008.
2. Available at www.world-nuclear.org/info/inf53.html.
3. Available at www.hindu.com/thehindu/nic/indousjoint.htm.
4. 'Indo-US joint statement, Continuation of pro-US shift: Left parties', US.rediff.com/news/2005/jul/21left.htm.
5. *Statesman*, 6 Jan 2009.
6. US-India joint statement, www.whitehouse.gov/news/releases/2006/03/20060302-5.html.
7. BBC News, news.bbc.co.uk/go/pr/fr/1/1/hi/world/south_asia/5120782.stm.
8. 'The India-US joint statement of July 18, 2005 — A year later', meaindia.nic.in/speech/2006/07/14ss01.htm.
9. *Ibid.*
10. *Ibid.*
11. *India Today*, 27 Aug 2007, p.15.
12. S.D. Krasner, 'Structural causes and regime consequences: regimes as intervening variables', *International Organization*, vol 36, no 2 (1982), pp.185-6.
13. Oran R. Young, *International Cooperation: Building regimes for natural*