

2 CHAPTER

India and the USA Relations

After reading the chapter, the reader will be able to develop an analytical understanding on the following:

- Historical diplomatic relations
- Defense and nuclear diplomacy
- Commercial diplomacy and Visa related issues
- Education diplomacy
- Analysis of bilateral visits

RELATIONS DURING THE COLD WAR

India and the US today stand to have a strategic partnership, but this was not always the case. It has undergone a tremendous transformation, to understand which, an analysis of their relations during the Cold War is necessary. We begin our study from World War–II era. For the US, in the interwar period, India did not have any economic or strategic significance. As India was then a British colony, the communication between India and the US at an independent level was impossible. It was F D Roosevelt who realised that India can play an important role in the World War–II. According to Roosevelt, India could act as a block to resist Japanese aggression in South Asia and provide the needed resistance for war efforts. In order to ensure that India participates in the World War–II, the nationalist leaders of India were to be taken into confidence. The nationalists stuck to one particular point—that India would support war efforts provided the British give them independence in return. Roosevelt, for that matter, took up the Indian issue with Churchill. The British did not appreciate the US prodding their affairs, which resulted in some tension in the US–British alliance. As far as the US was concerned, it was of the opinion that as the allied powers are fighting for independence and right to self-determination (RTSD), they should also in turn liberate their colonies, who were fighting imperialism for the same reasons.

In fact, the fundamental disagreement over India can be best elaborated if we look at how the US and the British viewed the Atlantic Charter (AC), which was a pivotal policy statement issued during World War–II on 14 August 1941, which defined the Allied goals for the post-war world. The leaders of the United Kingdom and the United States drafted the work and all the Allies later ratified it. The Charter stated the ideal goals of the war

- no territorial aggrandisement; no territorial changes made against the wishes of the people;
- self-determination; restoration of self-government to those deprived of it;
- reduction of trade restrictions; global cooperation to secure better economic and social conditions for all;
- freedom from fear and want; freedom of the seas; and abandonment of the use of force, as well as disarmament of aggressor nations.

Adherents of the Atlantic Charter signed the Declaration by United Nations on 1 January 1942, which became the basis for the modern United Nations. The Article 3 of the Charter advocated the idea of RTSD. The

Atlantic Charter advocated that all participating allies in war need to ensure that once that war is over, the people belonging to the lost territories after the war will have the RTSD. Churchill's view was that this Atlantic Charter point of RTSD held exclusively for Nazi areas won in the war. In contrast, for Roosevelt, the Atlantic Charter was a universal proposition and also applied to territories under colonial rule. Thus, for the US, India was a rightful claimant to RTSD.



Communication Gap in Indo–US Relations

The lack of communication between India and the US was a crucial missing link. The reason was that India was a British colony. If the US wanted any communication, the communication would flow through the British Embassy in Washington to the Foreign Office in London and then to Indian offices. In order to initiate communication between India and the US during the onset of the World War–II, Roosevelt sent a senior diplomat in 1941 to undertake direct communication with India. The senior diplomat was designated as a US commissioner in New Delhi. In return, a senior Indian civil servant was designated and sent to the US agent general of India. In 1942, Roosevelt sent Louis Johnson, the former Assistant Secretary of war in US administration, as the Personal Representative to India. Thus, Roosevelt expanded the lines of communication between India and the US.

Though Roosevelt tried his level best to convince Churchill about liberating India, after his threat to resign, the US gave up the Indian issue, much to the unhappiness and disappointment of Indians. They were of the opinion that the US should have applied more pressure on its own ally to get a timeframe for Indian independence. The Indian Nationalists resorted to the Quit India Movement in 1942. The Americans did not appreciate this tactic of India and advised that the priority, at the moment, was to cooperate in World War –II. This brought about a slowdown in the relations between India and the US. Thus, for the US, the priority was winning World War–II, which India perceived as secondary, as for India, the primary cause was its own independence from the British.



Role of the US in the Indian National Movement

Since the beginning of the 20th century, the national movement gradually began to be known to the people in the US. Firstly, some Indian students who used to visit the US began to popularise the cause of national movement. Secondly, eminent personalities from India, such as Rabindranath Tagore and Swami Vivekananda, also visited US, which created an awareness about this faraway colonial space in the consciousness of US citizens. However, this was also the time when the US was very favourably inclined to the British and did not take the Indian national movement very seriously. An important role in popularisation of the national movement was played by American missionaries. A lot of missionaries had over a period of time come to India. They prepared reports on the national movement. They also wrote extensively about the dissent that the Indian people had developed against the British government. This

helped in taking the national movement to the educated masses of the US.

As India became independent, a new irritant that emerged between India and the US was the issue of Kashmir. Difference also arose over the question of national priorities. The US advocated military buildup to contain the Soviets while India refrained from the logic of containment with a focus on economy and a stable international order.

Kashmir was the more pressing issue. Kashmir was given an option to join India or Pakistan. It was ruled by Hari Singh, who initially showed reluctance to join either India or Pakistan and began to negotiate a standstill agreement with both. India rejected any standstill agreement while Pakistan accepted the idea of standstill agreement. The acceptance of Pakistan was based on the assumption that a standstill agreement meant that initially, rail, postal, telegraph areas would be with Hari Singh but defence and foreign policy decisions would lie with Pakistan. Pakistan thought that this arrangement would pave way for the accession of Kashmir with them. Hari Singh was not comfortable with Pakistani interference and began to stall the standstill agreement. Pakistan thought Hari Singh was secretly negotiating with India and was therefore beginning to stall the standstill agreement. While all this was underway, communal riots broke out in Jammu. Pakistan thought India would take advantage of the riots and send in security forces and responded with a pre-emptive attack by sending soldiers disguised as tribesmen in Kashmir and began an invasion. As the rebellion of tribals erupted, Hari Singh appealed to India for help, to which Nehru responded and on 26th October, 1947, sent in Indian troops to take charge of Kashmir.

Upon the insistence of the US, India took the matter to the UN. India opined that the UN would urge Pakistan to halt aggression and withdraw forces. In the meantime, India sent an extensive combat operation in Kashmir. By the time Indian troops entered Kashmir, Pakistan had occupied two-thirds of Kashmir. India continued to advocate a diplomatic solution through the UN. The British certainly did not favour escalation and they tilted to support Pakistan out of its own interest. The British, at the end of World War–II, had handed over the Mandate of Palestine to the UN, which had upset the Arabs. The British thought that if they also alienate Kashmir, it would upset equations in the Middle East as Pakistan had just emerged as an Islamic state. Though the British wanted a peaceful and acceptable solution to the Kashmir dispute, they were reluctant to drag the issue further. The British decided to seek US assistance. The US itself was not keen on meddling into Asian affairs and was initially reluctant. However, to respect its alliance with the British, the US began to develop a position similar to the British position on the matter. They also advocated a plebiscite and a political solution. The US even warned India that if India did not cooperate, it could have consequences for the Indo–US relations. India, in contrast, insisted that it did not need goodwill of any nation and it could anyway develop proximity to the Soviets. India resented the Anglo–American axis and perceived the US policy on Kashmir as an extension of the colonial legacy. As the Cold War deepened, the US came to appreciate the fact that the India way was a democratic one and they shared this value with India. They also realised that India is geographically proximate to communist China. The US began to give economic aid to India to target communist China. In the process, when in 1962, the Indo–China conflict took place, the US supported India and even decided at one time to supply military equipment and weapons. However, as China declared a unilateral ceasefire, the delivery of US weapons was not necessitated.

India did appreciate US support but made it clear that it would not support either the US or the USSR and would continue with its non-alignment policy.

However, it is noteworthy that India, under NAM, was not particularly neutral in practice, but was actually anti-US, with a tilt towards the Soviet camp. There were two reasons why India preferred the Soviet Union over the US. Firstly, India was deeply affected due to colonialism. The Indian psyche was so severely affected, that colonialism was not something it would ever admire or condone. When India analysed the past, it established an understanding that the USSR was better than the western imperial powers and their ally, the US, as it lacked any colonial history. Secondly, India appreciated the Soviet model of industrialisation and was favourably inclined to a state-led model as contrast to the free market model of the US. India was, at this point, yet to understand the underside of the kind of oppressive communism practised by Stalin or the conditions to which the satellite states of the USSR were being subjected under the communist regime.

American fears got further exacerbated post-1971. At the strategic level, after the treaty with the Soviet Union in 1971, the USSR extended its security blanket to India against any future military threat. The USSR also continued to give arms to India. During the period of the Cold War, as India adopted a closed economy, it held little appeal for the US. The US could not take up any serious economic engagement due to the different economic model adopted by India. As Indian economy was relatively weak, it could not establish a strong military. The absence of a strong military meant that India did not pose a direct challenge to any interest of the US in Asia. Another factor that added to the neglect of Indo-US relations was Pakistan. Pakistan became an ally of the US (through SEATO–1954 and CENTO–1955). Pakistani territory was used by the US as a military base for the containment of the USSR. The US–Pakistan axis contributed significantly in reducing the scope of India–US. India's worst apprehensions came true in 1971 when Nixon heavily tilted to help Pakistan in the East Pakistan crisis by sending in the USS Enterprise. For many decades, India established a negative perception of the US as it had been an Indian enemy in war. The testing of nuclear weapon in 1974 by India took Indo-US relations to a new low and the two could not evolve consensus on nuclear non-proliferation. The period of the Cold War subsequently remained a low phase in Indo-US engagement.

INDIA AND US DEFENCE DIPLOMACY

Basic Overview

When the Cold War ended, India began to initiate a defence partnership with the US. In 1991, the US army Chief Claude Kicklighter visited India and presented the famous Kicklighter proposals. As per the proposals, defence cooperation between the US and the Indian army was envisaged and an executive steering group for navy (in 1992) and Air Force (in 1993) was to be undertaken. This was followed by Malabar I, Malabar II, and Malabar III naval exercises. In 1995, agreed minutes for the expansion of defence cooperation between the US and Indian defence departments and service-to-service military exchanges were undertaken. In 2005, it evolved into a new framework for Indo-US defence trade, amounting, in recent times to over 9 billion dollars. In 2010, the Indo-US counter terrorism cooperation initiative was launched. It has focus areas like capacity building, mega city policing, cyber security and so forth. In 2013, the Joint Principles for Defence Cooperation was agreed upon to ensure technology transfers and defence trade. A

defence policy group had been established which acts as a guide for defence cooperation between India and the US.

India has purchased eight Boeing P-8-I multi-mission marine aircrafts from the US. In April, 2016, the US Defence Secretary Ashton Carter visited India to boost defence cooperation. The US and India agreed on two pathfinder projects. They will jointly establish the Digital Helmet mounted display and joint biological tactical detection system. There is cooperation on next generation protective ensemble suit for soldiers to be used in nuclear and chemical warfare. The two will also cooperate on mobile electronic hybrid power sources and launch micro drones for surveillance in battlefield. Since 2012, there was a Defence Technology and Trade Initiative (DTTI) in place and in 2014 came the Indo-US Declaration on Defence Cooperation. During Obama's 2015 visit to India, a Defence Framework for India-US—which had been argued for 10 years, and a joint strategic vision for the Asia-Pacific and the Indian Ocean region—was concluded. The core components of DTTI are Defence Cooperation, R&D, Defence Trade and Co-development of equipments.

In January 2015, the Pentagon established an India Rapid Reaction cell as a country-specific cell for bilateral cooperation with India. The aim is to move beyond the buyer-seller dynamics and go for technology transfers. In March 2016, the US-India Defence Technology and Partnership Act was introduced in the US. This will institutionalise the DTTI and India Rapid Reaction Cell. During the visit of Ashton Carter, the principles of understanding were laid for a Logistics Exchange Memorandum of Agreement (LEMOA). The LEMOA was finally concluded during John Kerry's visit to India on 30th August, 2016, which coincided with the Indian Defence Minister's visit to the US.

In-depth Analysis

The origin of security cooperation between India and US in the modern times owes its origin to the Indian Ocean Tsunami of 2004. As the Tsunami struck Sri Lanka, Indonesia, Maldives, and other areas, the Indian Navy immediately launched a mega disaster relief operation. This humanitarianism intervention of the Indian Navy received support from the US Navy as well. The two decided to work together to provide immediate post-disaster relief. The joint experience gave rise to an emerging bilateral security cooperation which had never been witnessed before. The US appreciated the Indian Navy's swiftness while India appreciated the American Navy's professionalism and logistics. This led the two sides to establish cooperation at the dimension of naval diplomacy with humanitarian applications. The consolidation of this security cooperation is still an ongoing process and the conclusion of the Logistical Exchange Memorandum of Agreement (LEMOA) in 2016 is a step in the same direction. However, we shall also figure out reasons why security remains a weak dimension in the Indo-US bilateral ties. One reason for security being an area of disconnect is how both perceive their global roles. The US, since the end of the WW-II, favours a system where its friend and allies collectively defend freedom and work cooperatively on dimensions of strategic interest. However, India's global aspirations are premised upon its historic greatness and its quest for maintaining strategic autonomy. At the philosophical level, the US favours aggressive changes to strategic situations.

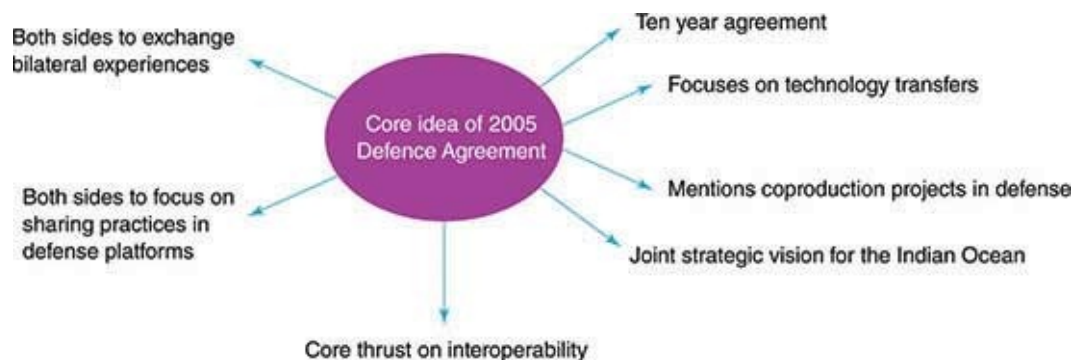


Let us now consider the India–US Defence Framework. The first ever step towards defense diplomacy between India and US was seen in 1962 when India had a conflict with China. At that time Nehru, in a letter to John F Kennedy, had sought US military help. The then Foreign Secretary General of India, M J Desai, had conveyed categorically to the then US ambassador to India, John Kenneth Galbraith, that India would seek military aid from the US provided that the US does not insist on alliance formation. The US had agreed to immediately order military supply to be airlifted to India. However, this initial cooperation was perceived by the two sides very differently. The US saw the Sino–Indian conflict as an exercise that would allow the US to explore a common working ground with India. For the Indians, it was limited assistance and much lesser than what they expected, which also eventually was stopped in 1965 when war with Pakistan broke out. For India, the cooperation was insignificant in contrast to Indian cooperation with the USSR. Since the end of the Cold War, both India and the US have steadily improved their security cooperation. However, the difference in the structure of defence establishments in India and the US often create different worldviews, thereby, at times, causing friction in the process of security cooperation. In India, the civilian bureaucrats, often with no experience in national security, have an upper hand while in the US, it's the military officials who have an upper hand in military diplomacy. In 1991, the commander of US Army Pacific, Claude Kicklighter, sent a proposal to the chief of Indian Army General Sunith Francis Rodriguez. These proposals were known as the Kicklighter proposals and envisaged bilateral visits, training and conferences between India and the US. An important dimension also was the participation of India in regional conferences sponsored by the US. A new Defence Policy Group was also established. The approval for the Kicklighter proposals had to come from Indian Ministry of Defence. The clearances came very slowly and painfully. This highlighted to the US, the difference in the Indian approach at the defence level. The next level of defence cooperation came up in 1995 when the two sides concluded an agreement called the Agreement Minute on Defence Relations. This marked a new dimension of strategic cooperation between India and the US. The US officials were again puzzled in 1995 as this deal too was negotiated by the civilian bureaucracy and was again slow in process. After delays in drafting the document, in 1995 finally just a month before the visit of Secretary Perry from the US to India, the document was prepared. It envisaged three broad dimensions for cooperation.

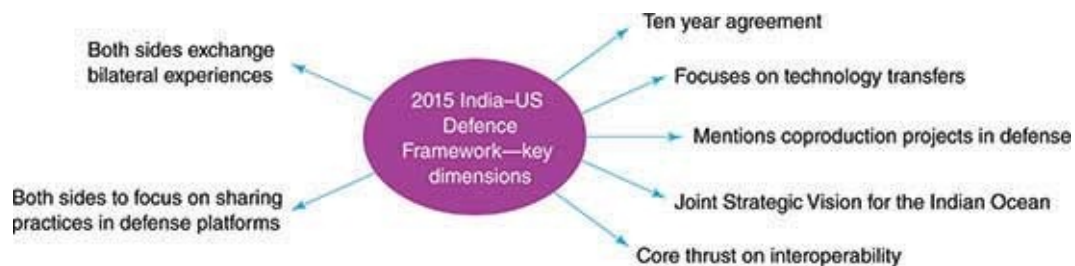


Though a framework had been established, at the time of implementation there was a perceived gap in the objectives that each side intended to achieve. For the Indian civilian bureaucracy, technology access was the core objective while the Indian military envisaged access to specialised courses and equipment. On the other hand, the US officials wanted military contacts with future interoperability as the objective. The defence relations were

further enhanced in 2005 when the two sides concluded a framework agreement where both, for the first time, accepted common interests and shared beliefs in values like freedom, democracy and the rule of law. There was a decision taken to give a public character to the emerging bilateral relationship. The 2005 agreement identified thirteen broad activities that both sides decided to envisage bilaterally. A dimension of cooperation in missile defence was added in the 2005 agreement.



With the coming of the Modi government in 2014, India and the US concluded a ten-year framework agreement for defence cooperation in 2015. What makes the 2015 agreement different from the 2005 agreement is its focus on more areas of cooperation.



The next dimension that again brought out differences between the two sides was defence trade. In 2013, the US Deputy Secretary of Defence, Ashton Carter envisaged a DTI with India. India perceived the DTI as majorly a Defence Technology Initiative while for the US, it was more a Defence Trade Initiative. The initiative was finally called the DTTI or Defence Technology and Trade Initiative.



From the Indian perspective, the core goal of defence engagement with the US is based on transfer of sophisticated military technology from the US to India for supporting domestic development of defence equipments. India believes that any military diplomacy with a foreign state should assist the Indian defence industry to undertake production of technology in India. For India, the maintenance of a credible strategic autonomy is possible only if India develops a capable defence industry domestically. For the US, its defence diplomacy with India is to establish a long-term relationship that would allow both India and the US to jointly address contingencies in the region that may arise in the future. For the US, if India purchases defence products from them and uses their

equipments, then interoperability gets drastically enhanced. For this, the US favours more bilateral military exercises to establish technical interoperability.

Some Indian officials do not share this point of view. India, in recent times, has started positioning itself as a net security provider in the Indian Ocean region as an extension to India's quest of regional supremacy. Indian officials believe that any interoperability with the US will be an unwanted intrusion into sovereign Indian space. Indians favour a one-time transaction over establishing a partnership with the US as they still perceive the US as an unreliable supplier. This is because, as per US laws, the US Congress, even before the transaction is consummated, can block or amend a sale agreement through legislation. A precedent can be cited in the way, after the 1974 nuclear test by India, the US halted fuel supply to the Tarapur Plant despite a thirty-year supply agreement. Though the bilateral Indo-US Defence Trade does not require licensing anywhere, there is a perception amongst the Indian side that the US Arms Export Control Act will act as a burden on defence purchases made by India.



For India, any procurement it makes should have the following:



The US officials also face difficulty in negotiating prices with Indians. Indian Defence Procurement Policies have no concept related to life-cycle costs. The US equipment is costly. While the pre-bid phase of acquiring technology is on, India favours deals on the basis of fixed costs. The US suppliers, on the other hand, assert that they do offer expensive equipment but later, the costs can come down when it comes to contracts for long-term maintenance as they see a product through its complete life cycle. Thus, the US suppliers favour 'life cycle costs'-based bidding while the Indians are sceptical about such moves. Furthermore, India favours more customisation of equipment owing to the broad variety of conditions in which the Indian military operates. The Israeli and French bidders excel in coordination over their US counterparts. India is also very particular in ensuring that bidders meet all specifications at the evaluation stage—even if one specification is not complied with, India rejects the bidder. The coming of Ashton Carter helped in making the US defence system more user-friendly for India. India was brought under the Strategic Trade Authorisation Group of countries, enabling defence trade with no license for a few products. He focused on coproduction at maritime and air levels, which was highly appreciated by India. In conclusion, few broad themes can be outlined here.



The US and India LEMOA

The logistics exchange programme has foundation in the Communication Interoperability and Security Memorandum Agreement (COSMOA) and Basic Exchange and Cooperation Agreement for geo-spatial Cooperation (BECA). To facilitate logistics exchange between India and the US, a third agreement called the LEMOA was signed. The LEMOA is an agreement related to cooperation in logistical exchange and troops stationing. For India, the LEMOA has been modified to keep in mind Indian concerns, for instance, the agreement ensures that it warrants no foreign troops of US to be stationed in India. The agreement envisages refuelling and birthing facilities for aircrafts and naval ships without a huge rigmarole of clearances being involved. This will enhance joint cooperation in humanitarian sharing of the two at the defence level.

INDIA-US EDUCATION DIPLOMACY

In 2009, the Obama-Singh 21st Century Knowledge Initiative was launched. It is now a part of the Indo-US Strategic Partnership Agreement. In 2011, the India-US Education Summit was held. It has subsequently held dialogues in 2012 and 2013 and has organised a road trip to promote strategic institution partnership. The aim of the Obama-Singh knowledge initiative were to promote R&D, vocational training and junior faculty development. As of 2016, it has been renamed the Indo-US 21st Century Knowledge Initiative awards. India and US have had Fulbright Programme since 1950 and in 2008, it was renamed as the Nehru Fulbright Programme for science, technology and agriculture. India, under its latest government, is trying to emulate the concept of community colleges in the US to enhance vocational education and skill development in India.

INDIA AND US NUCLEAR DIPLOMACY AND POWER POLITICS

Basics of the Nuclear Deal

In 2008, the conclusion of the nuclear deal served not only as a sign of diplomatic victory but also a turning point in the Indo-US relations. The deal signifies a quantum leap in the relations from suspicion during the Cold War to strategic partnership in the 21st century. The subsequent approval of the deal by the US Congress clearly signifies that the new India-US partnership enjoys a broad spectrum of approval within the US. All these developments have happened despite India sticking to its stand of not signing the discriminatory NPT. The kind of aggression showed by Bush somehow has not been

carried forward by Obama. The Obama regime took up traditional issues related to global non-proliferation around the NPT. However, the Nuclear Security Summits under The Prague Initiative of Obama, along with a new Strategic Arms Reduction Treaty with Russia and new Nuclear Posture Review, had created some discomfort in India not because they are steps for a strong global non-proliferation regime but because they were centred around the NPT and the CTBT which India refuses to ratify.

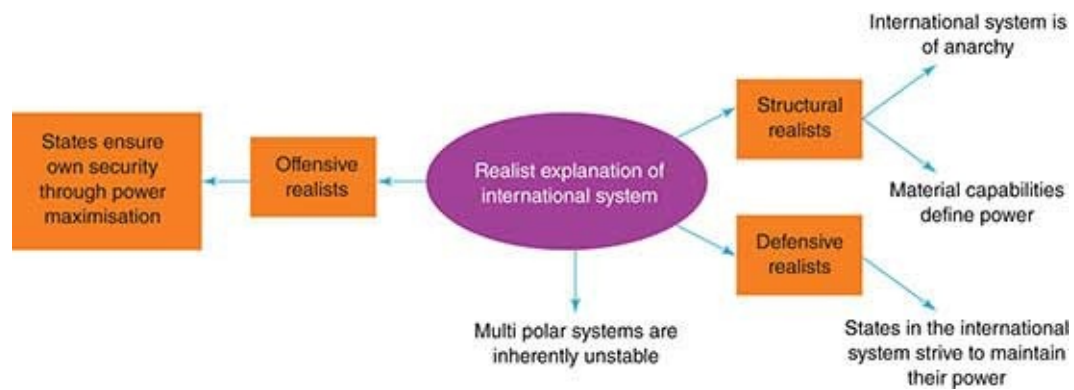
At a broader level, we need to understand the changing dynamics in Asia. Since the end of Cold War, China has gradually acquired economic and military strength and has resorted to incursions along the Line of Actual Control between India and China. This has increased bilateral tensions. The Indian psyche still is affected with the defeat of 1962 and suspicions about China's intentions remains high. The growing proximity of India and the US is something China is uncomfortable with as the proximity is designed to contain its growth potential. This is not completely wrong as both India and US certainly favour an open Asian order which is not threatened by any regional hegemony. Any country which would prevent any Asian player to access productive gains from other Asian states would not be appreciated either by India or the US. Keeping this in mind, the Indo-US nuclear deal and rising strategic convergence between India and the US would seek to ensure that China does not single handedly dominate the Asia-Pacific and that the region remains free from dominance by any one nation.

In-depth Analysis

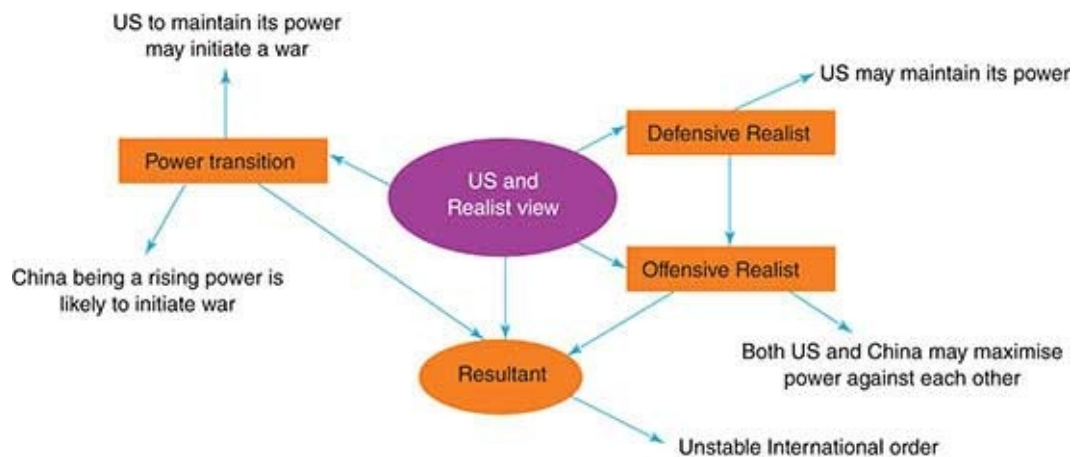
One of the key structural determinants of the US-India Entente has been the economic regeneration of India since the end of the Cold War. However, the limitations on a deeper cooperation were placed due to the reluctance of the US to reconcile the nuclear status of India. The 1998 nuclear test by India was a serious jolt to the ongoing regeneration of the relationship. The US did not envisage any comprehensive alternative to the goal of nuclear non-proliferation yet wanted to improve relations with India. The subsequent Jaswant Singh and Strobe Talbot talks set in motion a new phase of bilateral engagement between the two states. As the ties witnessed an upswing, the announcement of Next Steps in Strategic Partnership in 2004 harbingered a new foundation in the relationship. The relationship has flourished in all directions ranging from commercial trade to naval exercises to the recently concluded logistical agreement.



The Bush administration, through the Indo-US nuclear deal, resolved the fundamental obstacle in the transfer of nuclear and high-end technology, thereby enabling India and the US to reach the full potential of their bilateral ties. The international realities have changed since the end of the Cold War. As the US policed the region of Asia and the world, China used the opportunity to undertake economic development. At the theoretical level, there is no consensus amongst scholars on the question of the political supremacy of the US. Scholars do believe that the US is a dominant power but for how long this dominance would last is a concern.



Based on the realist's explanation of the international order, it is believed that the post-Cold War period is likely to be of unstable international order.

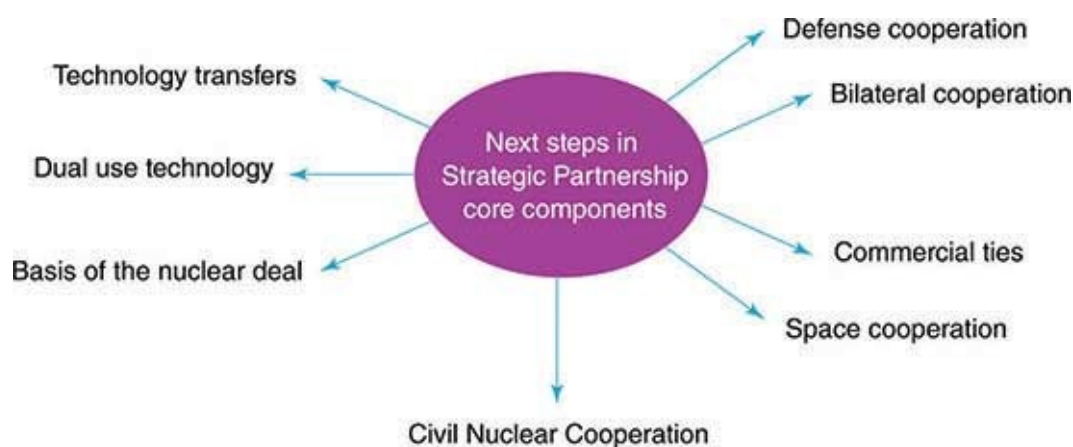


As a confrontation between the US and China will destabilise the Asia–Pacific, both sides have resorted to expand their influence. The Pivot to Asia of the US is being matched with the One Belt and One Road initiative of China. The change in the balance of power in the region compelled Bush administration to accept the ground realities and initiate strategic recalibration. The strategy of the US, as visible under Pivot to Asia, is to continue to engage with China and also increase the power of the states in the periphery of China. It is in this context that the US has also decided to reach out to new partners like India in a way never previously envisioned. The US has also always held Japan as a key partner in Asia. As China rises, the proximity of the US, India and Japan is likely to fuel more tensions in the region. The recently concluded India–Japan nuclear deal (2016) is likely to further enhance Japanese position in Asia. The goal that India and Japan are trying to achieve through their cooperation is to ensure that China becomes more cooperative as both view China as a military threat. The recent assertion of China in South China Sea and China defining territorial waters as its core national interest has further increased the fears of the regional states. After China's reluctance to accept the verdict of the Permanent Court of Arbitration in 2016, the regional states feel that China may block the economic lifeline of the states that have maritime passages. China has also refused to allow India membership to the Nuclear Supplier Group. China's increasing influence in Pakistan, Nepal, Bangladesh and Myanmar are attempts to prevent the rise of India as an important regional and global player.

To tackle this challenge, India has decided to adopt a new approach towards the US. The Bush administration, by giving India the nuclear deal, has successfully incorporated India into the global nuclear order and has encouraged India to emerge as a great power in the future. Thus, shifts in the global balance of power have encouraged the US and India

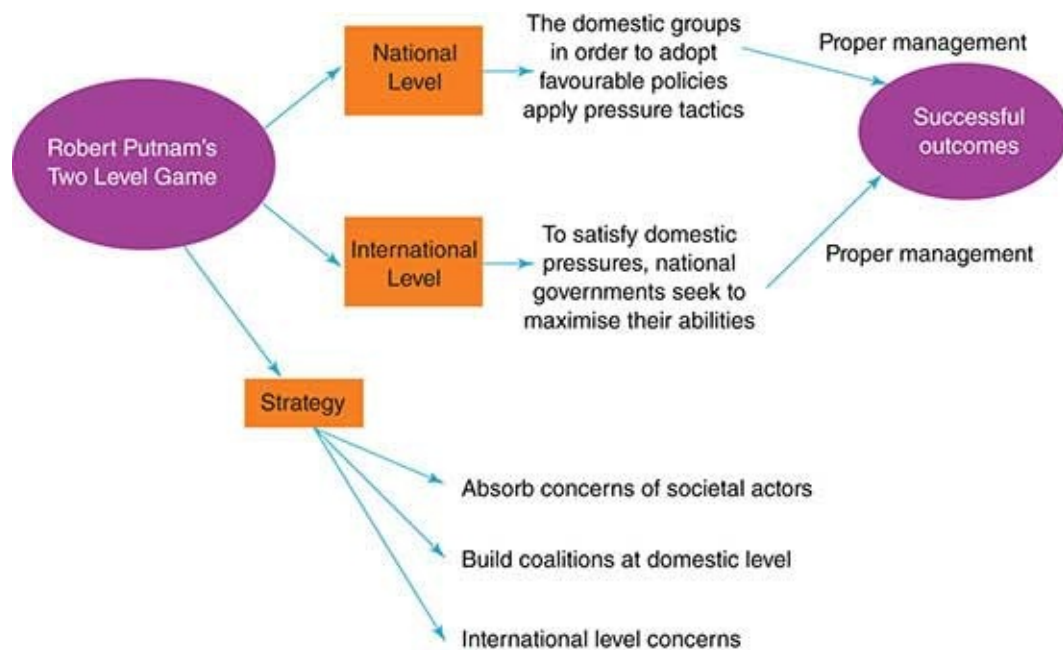
to reorient their foreign policies and the nuclear deal is the most important symbol of this new partnership. Earlier, the visit of Bill Clinton to India in the 1990s had provided a new impetus to the relationship where Clinton and Vajpayee adopted a new vision for the 21st century. A purposeful direction in the Indo–US ties was introduced by the subsequent Bush administration, which began to view India as a strategic ally and refused to look to India solely through the lens of non-proliferation.

In 2005, Condoleezza Rice visited India to push for an unprecedented framework of cooperation with India. This took India by surprise but the Bush administration eventually announced civilian nuclear cooperation with India to help India emerge as a world power. After 9/11, Bush redefined how the US saw non-proliferation. The idea was that some states could not be trusted with nuclear weapons due to their unstable political regime domestically, while states like India, which have an impeccable non-proliferation policy to restore readability at the level of global non-proliferation norms, could be allowed nuclear access. The announcement of NSSP is deemed to be the game changer.

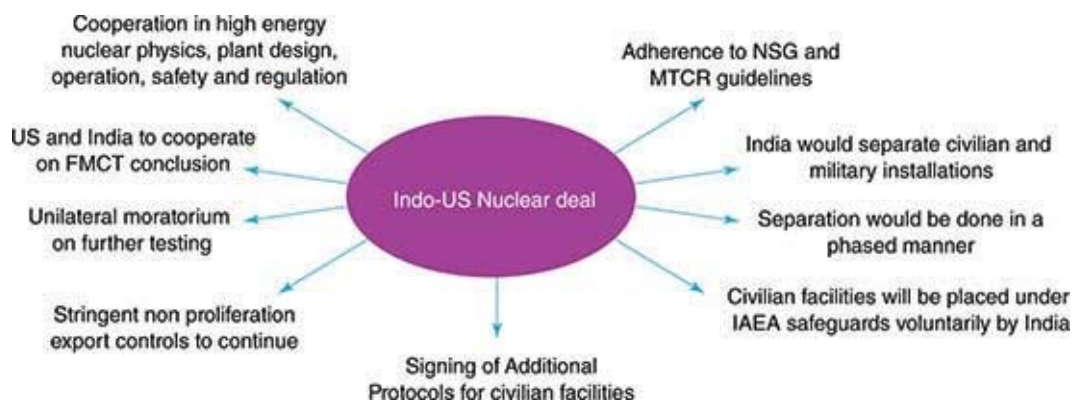


Bush realised that marginalising India would not benefit the nuclear non-proliferation order as he believed that the character of the regime was a more important determinant than a stand on a treaty to decide nuclear technology transfers. A nuclear deal successfully de-hyphenated India and Pakistan and gave India the de facto status of a nuclear weapon state. The change of the administration from Bush to Obama created some uneasiness amongst the Indian establishment. Bush looked at India as a new strategic landscape, while Obama, in his Pivot to Asia, did not look at India as a strategic player. What upset India further was Obama's toying with the idea of G–2 consisting of the US and China, allowing China the leverage to manage its dominance over the Asia–Pacific. What aggravated tensions further was the fact that, during Obama's visit to China, he made a reference to giving Beijing a lever in settling disputes between Pakistan and India.

Obama did, however, try to allay some fears by announcing support to India's candidature at the UN Security Council during his visit to India in November 2010.



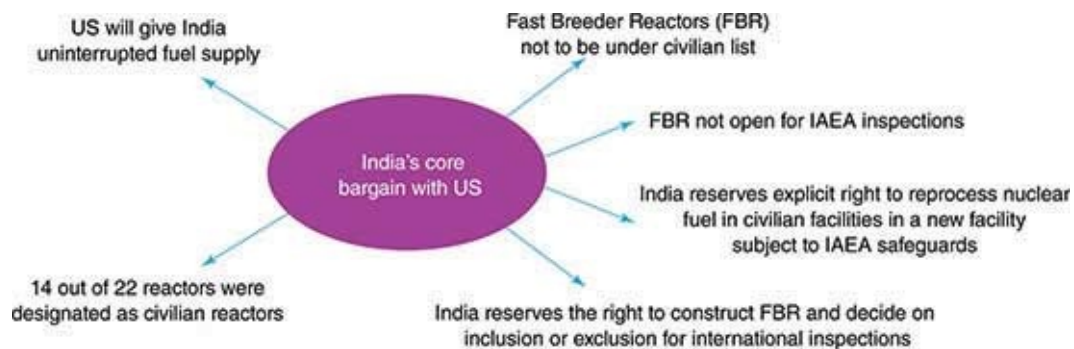
At the national level in India, the BJP criticised the deal by advocating that separation of civilian and military installations (as committed by India under the deal) would compel India to incur huge costs. The Left parties which were in a coalition with the government of the day criticised the deal for renunciation of India's long held policy of nuclear disarmament and of non-alignment.



The starkest criticism of the deal came from the scientific community. The department of atomic energy strongly resisted the putting of fast breeder programmes under the civilian list. The government worked hard to remove and address the concerns of the scientific establishment. At the international level, India at the time of its deal, had to confront Iran. The US and Iran did not have a comfortable relationship as the US was deeply concerned about the Iranian nuclear programme. India was, on the other hand, reluctant to undermine its relations with Iran although it could not jeopardise a growing strategic partnership that had begun with the US in favour of Iran. India voted against Iran in 2006 at the IAEA voting. India clarified that when India had conducted a nuclear test in 1998, Iran had favoured a UNSC resolution asking India to put a cap on its nuclear capabilities and had urged India to sign the NPT and the CTBT. There are many things about Iran which caused discomfiture to India. India, however, did not turn aggressive towards Iran and maintained that Iran was a great friend to India, while pushing for resolving the Iranian nuclear issue through diplomacy. India used the IAEA and Iran's programme to highlight the role of A Q Khan and of Pakistan as a proliferators state. India sponsored the US/EU-favoured resolution, recommending Iran to be examined as a case by the IAEA. India clarified that its vote was to prevent vitality in the Middle East and had

no relation with Indo–US cooperation.

To place the Indian scientific community, the then Indian PM Manmohan Singh declared in the Indian Parliament that India's Fast Breeder Reactor (FBR) would not be put under international inspections of the IAEA and the FBRs would not constitute elements under the civilian list. India succeeded in this hard bargain with US.



With the bargain successfully undertaken, India signed the agreement on 1st March, 2006, achieving a judicious balance between the energy security and national interests. The conclusion of the 123 agreement (based on section 123 of the US Atomic Energy Act) became the touchstone of Indo–US partnership. In the deal, India has not made mention of any provision related to the testing of a nuclear weapon which is likely to impact the deal, but the US President, under the Atomic Energy Act, is bound to ask for a return of nuclear technology if India tests a nuclear weapon. As the deal went through within India, the Congress Party witnessed a lot of trouble in getting ratification due to stiff opposition by the leftist parties who were a part of the ruling coalition government. The ruling Congress party was able to garner support from the Samajwadi Party and was thus able to push the deal ahead even after the leftist parties withdrew their support to the ruling coalition. The deal survived but exposed the opposition that came from within the Congress coalition. Many in the US Congress, on the other hand, did not favour the idea of making an exception of India by providing it with nuclear technology despite it not being a signatory of the NPT. Many believed that a nuclear deal to India would convey to the world that the US lacks commitment to its broad goals of non-proliferation.

The biggest concerns for the US Congress were that such an exception in case of India will open up other states' demands to such technology and would adversely affect the global safeguard of non-proliferation. Under the NPT, there is no such clause where an NPT signatory cannot sell nuclear technology to non-NPT signatories. The Central Intelligence Agency of the US was entrusted with the task of making an assessment of the nuclear programme of India. The National Intelligence Council also gave briefings to the US Congress in the same regard. As the US tried to tackle the dissidents within, the hearing that happened in the US Congress on the issue of the nuclear pact revealed that a majority of the members testified before the House International Relations Committee that such a pact would weaken the overall international non-proliferation regime that the US had spent decades building. On the other hand, Ashley Tellis argued that the deal did strengthen USA's efforts on non-proliferation and a pact with India would enhance the national security of US. The vocal criticism in the US Senate Foreign Relations Committee was outlined by Senator Richard Lugar and he opened his statement by urging to the Senate that India does not have a very satisfying nuclear record. He also made references to Indian violation of bilateral pledges in 1974. He outlined a four-point

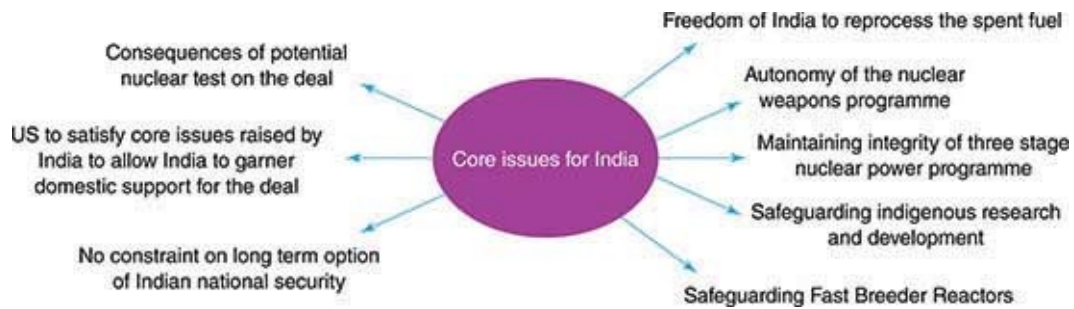
benchmark for the US Congress's consent to the pact.



The Bush administration, in its response to the Foreign Relations committee, admitted that the US could not establish a clear cut link if CIRUS reactor had violated US–India contract of 1956 on the use of heavy water. The administration asserted that deriving a conclusive answer to whether the plutonium generated by India happened from heavy water supplied by the US for the CIRUS reactor was not possible. The biggest reason for such criticism in the US Congress and the foreign policy bureaucracy was the reluctance of Bush to consult the two before embarking upon the nuclear deal with India. The Bush administration understood that taking an incremental approach to the deal, in sync with the bureaucracy and the US Congress, would have knocked down the initiative. This is the reason that Condoleezza Rice resorted to the ‘Big Bang’ announcement and compared the deal with India at par with Nixon’s opening to China. However, all opposition was managed when the Republicans lost majority in the Congress and the Senate signed the nuclear deal, thereby culminating in the three-year process.

The US subsequently pressed for an India-specific waiver. The US was able to assuage the NSG members and succeeded in the NSG-specific waiver for India. On 8th October, 2008, the US President signed the US–India Nuclear Cooperation Approval and Non-Proliferation Enhancement Act. Great power politics and nuclear non-proliferation are the two competing imperatives of the US foreign policy that created such difficulty in the negotiation of the Indo–US nuclear deal. Both India and the US perceived the deal very differently. For the Bush administration, the deal was a bridge to establish a strategic partnership with India, while, for Indian establishment, it was a mechanism to reach the global nuclear mainstream and a step towards great power status. However, from our analysis of the nuclear deal in this section, we can clearly infer that the Indo–US nuclear deal is not just about nuclear technicalities but the emergence of a new global balance of power which highlights the strategic considerations of great powers related to nuclear non-proliferation. The Bush administration clearly perceived the nuclear deal as a means towards helping India emerge as a global player and therefore, the institutional imperatives of the non-proliferation regime were once again trumped by the global political realities.

The major issue of disagreement on the Indian side was related to India’s nuclear weapon programme. Indian PM Manmohan Singh assured the Parliament that the Indo–US deal in no way affects Indian deterrence potential. India made it clear that the core issues while negotiating the 123 agreement that had to be taken into consideration were as follows:



As intensive negotiations happened on these core issues, the terms of 123 agreements were finally accepted. The US agreed to assist India in the development of a strategic fuel reserve and ensure uninterrupted supply of nuclear fuel. India was allowed to establish a new facility subject to the IAEA safeguards to reprocess the spent fuel from the civilian reactors. The US president, as per the Atomic Energy Act of the US, remains bound to seek complete return of nuclear material in case of any violation, but the Indo–US deal did not make any reference as such for the same. However, the US would not hamper or create any hindrance in the growth of the nuclear weapons programme of India. In fact, India undertook aggressive diplomacy to ensure that if India tests a nuclear weapon, the US would not suddenly stop supplies of fuel and technology and demand a return, but would analyse the circumstances that led India to test the weapon. The plan to separate eight reactors for weapon or military use would now allow the use of domestic Uranium ore reserves for these separated reactors. This would allow the eight reactors to produce fissile material needed for credible minimum deterrence. The nuclear deal was basically viewed as an instrument in reshaping the Asian balance of power rather than affecting non-proliferation architecture. However, since the nuclear weapons programme was brought under the aegis of the IAEA, the nuclear deal has overall strengthened the global nuclear non-proliferation order.

India and the US—Nuclear Negotiations

Here we shall endeavour to delve into the negotiation behaviour of the two sides and explain the differences between the two points of view.

The origin of discord between Indian and the US at the nuclear level goes back to the Nuclear Non Proliferation Treaty (NPT). As explained earlier, the NPT was adopted on 1970 and stated that the states which had tested their nuclear weapons before 1st January, 1967, would be called Nuclear Weapon States while the other states would be called as Non Nuclear Weapon States. As per the treaty, the NWS would not only retain their arsenals but would not help NNWS to develop nuclear weapons. Also, the NNWS joining the NPT shall agree to ‘full-scope safeguards’. The NNWS would not develop any nuclear weapons and would place before the IAEA all their nuclear material. The placing of such material before the IAEA would act as a guarantee by the NNWS to keep their commitment.

Initially a High Technology cooperation group was established in the era of the George W Bush Junior’s administration. The aim was to agree upon principles that would expand exports from US industries. The group and the principles adopted were agreed upon after intense negotiations between the US under Secretary of Commerce, Kenneth Juster, and the Indian Foreign Secretary, Kanwal Sibal. The agreement spelled out possibilities of the export of dual-use technologies from the US to India. In 2003, during

further negotiations, the US presented Next steps in Strategic Partnership to India. In January, 2004, a basic framework for the NSSP was announced.



In 2003, the tenure of Kanwal Sibal as the Foreign Secretary ended. General elections were held in India. As a result of this, the NSSP negotiations witnessed a slowdown. India was of the opinion that the US was ignoring deeper nuclear cooperation with India under the NSSP. The coming of the UPA government in 2004 led to renewed push. J N Dixit was appointed the new National Security Advisor by PM Manmohan Singh. J N Dixit wanted a complete transformation in the Indo–US relations. He picked three Indian Foreign Services officers to work with him at the task. They were Ronen Sen, IFS, S Jaishankar, IFS (now Foreign Secretary) and Raminder Jassal, IFS. The Indian side sent a list of thirty issues to the US to be considered. These issues represented an ambitious push from India. Initially, the US negotiators rejected the list and asserted that for them, the NSSP is the agreed framework. Dixit had instructed the Indian negotiations not to return until negotiations on the list were initiated. Finally, in September, 2004, the US began to pick up issues from the list and began addressing them. This unfolded a new dimension in the Indo–US diplomatic negotiations. Taking advantage of the progress, in March, 2005, the US Secretary of State, Condoleezza Rice visited India and agreed to start nuclear negotiations. On 25th March, 2005, the White House announced that the US is going to help India emerge as a major player in the twenty first century. Both sides decided to conclude the agreement by mid-July, 2005, during the visit of Manmohan Singh to the US.

India appointed Shyam Saran and the US appointed Nicholas Burns as key negotiators. Both sides initiated intense negotiations through an aggressive yet restrictive diplomacy. During the visit of the Indian PM to the US in July, 2005, an announcement regarding nuclear cooperation was finally made. To resolve further issues, the Indian side resorted to an intense campaign of advocacy. Normally, the Indian MEA does not allow its officials to undertake direct advocacy with parliamentarians of another country. But this time, an exception was made by the MEA officials. More importantly, many officials even visited constituencies of various members to establish a direct contact.



India and Issues Related to the Nuclear Liability Law

When India and the US concluded the nuclear deal, to operationalise it, India had to ratify the convention on supplementary compensation on nuclear damages and also prepare a

nuclear liability law. Subsequently, India prepared the Civil Liability of Nuclear Damages Act (CLNDA) in 2010. The aim of the CLNDA is to ensure that in case of a nuclear accident, the victims get quick compensation without having to prove negligence by operator or supplier. The liability was capped at 1500 crore rupees. However, there are two issues raised by equipment suppliers in CLNDA. The first issue of CLNDA is section 17B, which states that in India, the plant operator in India, that is, NPCIL, under section 17B, can claim compensation from the supplier of equipment if it claims that the nuclear accident that happened was due to faulty equipments or material supplied by the supplier. The second issue is related to section 46. As per this section, the accident victims can sue both operator and material supplier over and above the amount capped. Now equipment suppliers, which are foreign players, say that these clauses (section 17B and section 46) put the supplier in a vulnerable situation and unnecessarily drag them into open-ended criminal action and tort law compensation. The suppliers say that the operator and not the supplier has to identify defects and get them rectified and in case of the failure of the operator to do so, the operator is to be held liable. The suppliers also say that India's CLNDA violates the Paris Convention of 1960 and the Vienna Convention of 1963 as well as the Convention on Supplementary Compensation for Nuclear Damages (CSC).

The government has tried to give some assurance to the suppliers by saying that as per section 7 of CLNDA, if the liability exceeds 1500 crore cap, the central government will establish a nuclear liability fund to protect the suppliers from any claims made by the operator. However, suppliers have pointed out that section 7 of the CLNDA still does not protect a supplier from claims made by accident victims under the law of torts. In 2015, the US president Obama visited India. During the visit, the two sides finalised administrative arrangements to execute the nuclear deal. This was built upon the India PM's visit to US in 2014 when a contact group to implement the deal had been established. After the successful completion of negotiation in the contact group, India agreed to establish a nuclear insurance pool formed by General Insurance Corporation of India (GIC) and 4 different PSUs, which will contribute 750 crore out of a total of 1500 crore while the government will contribute the rest of the amount. The insurance pool will provide cover to suppliers under section 17 of the CLNDA. Now under the pool, the operator and suppliers will become partners in risk management rather than eyeing each other as adversaries. The compensation amount is three hundred million in special drawing rights (SDR) and CLNDA has capped maximum liability for an operator to 1500 crore rupees. In case if value of SDR increases and goes beyond 1500 crores, the government would bridge the amount. On 12th June 2015, the General Insurance Company of India has launched the Indian Nuclear Insurance Pool with a capacity of 1500 crore as envisaged under CLNDA.



India and the Convention on Supplementary Compensation for Nuclear Damage (CSC)

The Paris Convention Third Party Liability in the Field of Nuclear Energy was established in 1960 and aims to limit liabilities to a fixed amount in case of nuclear accidents. The Vienna Convention also relates to liability related matters in case of

nuclear accidents. The third is the Convention on Supplementary Compensation for Nuclear Damages (CSC) that came up in 1997 and aimed to not only establish a global liability regime but also to ensure that in case of a nuclear accident, the victims get increased amounts of compensation. Now if a country wants to join CSC, it has to be a part of the Vienna Convention. The CSC has a clause which says that if a country is not a party to Paris or Vienna Conventions, it can still become a part of CSC if it establishes a national law which synchronises with the CSC provisions and its annexes. On 29th October 2010, on this basis, India signed the CSC on the basis of its CLNDA. The Indian CLNDA is in compliance with the CSC and its annexes and India finally ratified the CSC through an Instrument of Ratification and became a state party to CSC on 4th May, 2016.

INDIA AND US COMMERCIAL DIPLOMACY

Basic Overview

The US–India trade has picked up in post-Cold War times. In 2005, the two established a Trade Policy Forum. It was a dedicated forum for economic and multilevel engagement. The US exports nuclear reactors, precious stones and electric machines to India and imports pharmaceutical, pearls, precious metals and mineral fuels. At the services level, India exports business and consulting services and technical services. Multibillion dollar FDI comes from the US to India in terms of business to Microsoft, Dell, Oracle, IBM, Harley Davidson, Ford and so on. The US has complained repeatedly about selective access available as in many sectors in India, FDI are not permissible. At the level of pharmacy, IPR is a key issue. The US wants easy IPR access and data exclusivity (explained in the chapter on India–Switzerland relations) to which India is opposed.

To promote technical cooperation in 2003, an India–US High Technical Cooperation group was established. The US continues to assert that India lacks the requisite regulatory, legislative and bureaucratic apparatus to ensure sensitive technology is not given to rogue nations. In 1974, the US had launched a generalised system of Preference Programme and India is a beneficiary developing country in the programme. The US feels that GSP preference to India should be removed as India no longer needs it. Since 2009, India has been advocating for a bilateral investment treaty as a step towards an FTA to gain investment. The FTA negotiations were delayed as both India and the US decided to update their model bilateral investment treaties (BITs). India has adopted a new version in 2015 while the US replaced the 2004 model in 2012. In 2015, when Obama visited India, the joint statements advocated renewal of negotiations for the FTA. When the Indian PM visited US in September 2015, he again emphasised on an early conclusion of the BIT. The problems related to delay also owes to differences between India and US BITs. In the US, the BIT has a provision for most favoured nation (MFN) status which is missing in the Indian BIT. This means that under the international law, if a US firm in India is discriminated against, it shall have no remedy available. Further, the Indian BIT excludes compulsory licensing from the treaty. These issues are at the root cause of the delay.

In-depth Analysis

From 1946 to 2012, India has received 16 billion dollars' worth economic aid from the US. More than 50% of this aid has been food aid. Yet, the aid relationship between India

and the US had inauspicious beginnings. In 1949, Nehru paid his first state visit to the US. Domestically, at that time, India was suffering a famine and severe grain shortage. Instead of India directly asking for food aid from the US, Nehru dropped hints about the willingness of India to accept an offer. The US awaited a proper request. Nothing came out of the visit. One of the peculiar behaviours of Indian foreign policy mandarins is that they never ask for aids directly, which reflects a distaste for asking. However, with repeated failures of monsoons and successive famines, in December, 1950, the Indian Ambassador to the US, Vijayalakshmi Pandit, requested the US to supply two million tonnes of wheat. The US conveyed to India that such a proposal would require Congressional approval. As the Congress was debating the matter, India conveyed to the US that it needed assurance that no conditionality would be imposed on wheat supply and the aid would not affect India's foreign or domestic policy. Further, the US would not interfere or influence the sovereign domains of India. The US, however, asserted that it would observe the distribution of the wheat they would donate. On 11th June, 1951, a bill authorising 190 million dollar was approved by the US Congress as a long-term loan to be released for India.

The next line of Indo-US offensive came up in 1965, when India witnessed a severe famine and food shortage. India requested 10 million tonnes of food grains under the two-year food aid programme. This time the US President Lyndon Johnson announced a 'short tether policy'. As per the policy, Johnson stated that all food aid shipments to India would require his personal approval. India found the policy very offensive. The US began to insist that India undertake aggressive agricultural reforms. To work out an agreement, the Indian Agriculture Minister, C Subramaniam, held meetings with his American counterpart in Rome. India agreed to a very intrusive programme by November 1965, and brought changes in its agricultural policy.



Though Johnson was happy with the reforms that India made and subsequently eased out the wheat shipments, the experience of India to have gone through such intrusion was extremely taxing. Though Indira Gandhi had publicly thanked Americans for their aid and assistance, she categorically advised C Subrahmanium that India should ensure that it never had to beg for food grains ever from the US. India learned through the food aid negotiations that it is difficult to accept any foreign control over the usage of domestic resources.

In 2009, India and the US started negotiating a treaty to protect foreign investment that flows from one state to the other. The negotiations were slow because both sides updated their model BIT template in 2015, replacing the 2003 template. A BIT protects the investments of the investors by allowing them extra rights against unlawful actions of host states and thereby boosts investors' confidence, leading to more FDI. As per the 2003 BIT of India, the treaty offered investors fair and equitable treatment based on reasonability

and due process. The 2015 treaty has replaced it with customary international law. Now the investment by an investor shall not be subjected to any measures that violate existing customary international law. The Indian BIT of 2015 grants full security and protection to the foreign investors and their investment. More importantly, the BIT clearly states that the state will not discriminate the foreign investor from the nationals of the host state and shall not act in a discriminatory manner against foreign investors. The new BIT also talks about the provisions related to expropriation. According to the provisions, any investment shall be done with adequate compensation and under due process in accordance to the laws of the host states. The compensation shall be in freely convertible currency on the basis of the market value.

Under the new BIT, for dispute resolution the investor needs to exhaust all local remedies available in the state upto five years. The investors get a choice to arbitrate disputes either under International Centre for Settlement of Investment Disputes (ICSID) arbitration rules or the additional facility rules of ICSID or the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules. However, India not being a party to ICSID convention, the ICSID arbitration rules mechanism shall not be available to the investors. The new BIT does not mention the need for the 'Most Favoured Nation' status tag for each other. There is no provision for an umbrella clause which means there is no requirement to observe contractual obligations by the parties. An absence of the umbrella clause means that the domestic courts may not pursue claims as there are no direct contractual obligations involved.

As mentioned earlier, India and the US have been negotiating a BIT since 2009. Due to delays, a lot of competitors have established their foothold in the Indian markets. The Modi government at the centre has declared a need for 1 trillion dollars' investment in the infrastructure sector. If India and the US conclude a BIT, this is one area where US firms will stand to have an edge over other competitors. A future BIT can also lead to a grand collaboration between India and the US in retail and business services sector. The stringent environmental and labour concerns in the USBIT are irritants perceived by India. One reason why India and the US have not been able to conclude a BIT till date is because of the issues related to investor-state arbitration. India's emphasis in the new BIT, as stated earlier, is that the investor should first exhaust local remedies in the state upto five years. The US firms are not very enthusiastic about this provision due to a fairly poor image of Indian legal system as being overstretched.

The Indian BIT does not bring taxation within its purview. The US firms are of the view that an absence of such a provision enhances the tax leverage in the hands of the Indian authorities. Moreover, the Indian BIT has no mention of matters related to the insurance of compulsory license (CL) and in the absence of the same, the US firms would not get the power to sue an Indian firm for issuance of CLs or revocation of IPR.

The two nations have differing perceptions on IPR despite both being compliant to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement of WTO. The matter was aggravated in 2014 when the US trade representative put India under priority watch is under the 'special 301' report. The US stated India has inadequate IPR protection in IT, pharmacy and publishing industries. The US also alleged that India is a major source of counterfeit drugs. India has not been pleased with this

allegation since it is a generic drug exporter, and such an allegation could hurt the country's global image. Since 2012, patent disputes have emerged as a sticky issue because India has refused the US firms the right to patent, due to firms resorting to evergreening. Evergreening means that the company makes a mirror amendment to its already patented product and seeks to expand patent life further after a minor modification. India has invoked section 3(d) of the Indian Patent Act often.



In order to resolve the IPR issue, a high level working group has been established under the India–US Trade Policy Forum. As the negotiations progress, India should focus on protection of its national interests. India needs to give some space to the principle of eminent domain where, in public interest, the state can subordinate the IPR of private entities. The working groups should lay down a set of boundaries in case of ‘eminent domain’ being used for health-related issues. In March 2017, the Indian Foreign Secretary visited the US. During the visit, he raised issues related to the H1-B visa. He also spoke about the safety of Indians in the US. During the visit, the Foreign Secretary emphasised upon an early conclusion of the BIT and assured that the resolution of IPR issues would be taken up on priority.

INDIA–US VISA RELATED ISSUES

The US government has the provision of an H-1B visa. It is a non-immigrant visa for temporary workers. It is given for select special occupations. The issue is that in the US, if a company like an IT firm cannot find a skilled US worker, it can attract skilled workers under the H-1B programme. The US population is sceptical about the majority of the jobs being given to outsiders as they allege that firms hire from abroad to cut costs as labour is cheaper if imported and this undermines the employment to US citizens. Indian citizens are one of the largest H-1B users in the US. In 2015, the US administration under Obama signed the Consolidated Appropriation Act 2016. As per the law, the visa fee will be increased and the rise in cash flow to government coffers will be used for financing Obama's healthcare and biometric tracking system. The hike in the fees is going to offset IT and BPO exports of India.

With the coming of Donald Trump as the new US president, India and the US have had some irritants in their bilateral diplomacy. The H-1B visa issues have emerged as one of the greatest sources of friction between the two countries. An employer has to apply for an H-1B visa for the employee with the US immigration department. At the same time, there is one L-1 visa category which is an inter-company transfer category where the foreign worker can be temporarily transferred to the US in an executive or marginal position in the office of the same employer or its branch or subsidiary. Donald Trump has advocated changing the immigration system of the US and has asserted to make it more merit-based. The main logic of merit based immigration is to ensure that the immigrants entering the US are highly skilled and contribute to the American economy. The goal of

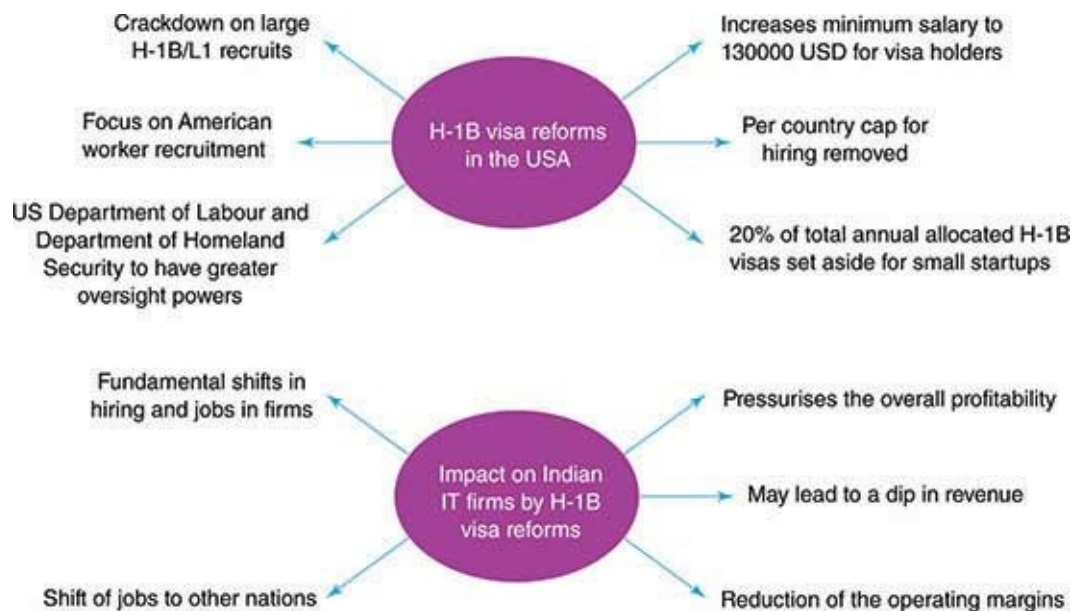
the new system is to have less low skilled immigrants.

In March 2017, the Trump administration decided that the government shall not undertake fast track processing of H-1B visa applications from 3rd April, 2017, for the next six months so that the US immigration authorities can analyse the H-1B extension applications of visa holders whose visas are on the verge of expiry. India has been an aggressive advocate of a fair and a rational approach to be adopted on visa related issues. India's Foreign Secretary S Jaishankar had conveyed to the US lawmakers to treat the H-1B issue as a trade and service matter than treating it as an immigration issue. The private US firms can pay a premium of 1225 US dollars per application. The payment of the premium ensures that the immigration department expedites the H-1B application and processes it in 15 days in contrast to the normal process of six months. The government of US has now stopped this practice. Under the Obama administration, a new H4 visa programme was launched that enabled the spouse of the H-1B visa holders in the US to undertake jobs in US. Trump administration has signalled a roll back of H4 visa as well.

The Trump administration placed the High-Skilled Integrity and Fairness Act of 2017 in front of the House of Representatives. The legislation has advocated for a market based allocation of visas. The legislation introduces mechanisms where companies can attract foreign talent by making it mandatory for a H-1B visa holder to have a minimum salary of 1,30,000 USD. This figure is double of what existed since 1989, that is, 60,000 USD. The legislation thus reduces the incentive to outsource jobs yet allowing an option to outsource jobs if the company expresses a willingness to pay. The legislation intends to promote fairness in hiring skilled workers globally by removing the per country cap for immigrant visa policy. To plug the loopholes in H-1B and L-1 visa programmes, the H-1B and L-1 visa reform acts were also envisaged.

In January 2017, the Protect and Grow American Jobs Act envisaged an increase in the minimum salary of H-1B visa holders and removal of the master's degree exemption.

The H-1B reforms will affect Infosys, TCS, Wipro, and so forth. More so with the hike in the minimum salary for visa holders, the smaller firms may find it difficult to incur costs, thereby affecting their growth. The profitability of the Indian IT sector would be affected as profits were maintained on the off shoring model. India has officially conveyed its concerns without taking up the matter through diplomatic channels. Indian firms in the US have now started recruiting domestic Americans as per the new requirements.



ANALYSIS OF INDIAN PM'S VISIT TO THE US, FROM 2014 TO 2017

The Indian PM, since 2014, has visited the US five times. The first meeting happened in September 2014 when the PM went to the UN General Assembly meeting. In September, 2015, the PM visited the Silicon Valley in the US. In March 2016, the PM again visited to participate in the Nuclear Security Summit and in June 2016, there was a state visit. In the September 2015 visit, the Strategic Dialogue between India and the US launched in 2009 was transformed into Strategic and Commercial Dialogue. The most significant factor of the visit was to garner US investments for Make in India to have a revive the Indian economy.

On the sidelines of economic diplomacy, as analysed above, defence cooperation was also intensified. India has begun the import of sensitive defence technology. Both have used the bilateral meetings to assert Freedom of Navigation and Protection of Sea Lanes of Communication. New collaborations in energy, science, environment, space, education and counter-terrorism has opened up. The PM also used the visits to reconnect with the Indian diaspora.

India and the US have moved beyond Joint Statements to announce Vision Statements. This has brought the needed octane to push the relations. On invitation of the US Congress House Speaker, Paul Ryan, the PM addressed the US Congress in June, 2016. To promote cooperation in sustainable development and clean energy, the two have agreed on establishing a Partnership to Advance Clean Energy (PACE). This will help envisage cooperation in air quality, transport fuels, climate financing, and so on. To resolve IPR issues, a high level group on IPR has been formed, which will work with Indo-US Trade Policy Forum.

Analysis of Indian PM Visit to USA-2017 (Path to a Low Velocity and a High Inertia Relationship)

In June 2017, Modi visited USA. The Indian PM could have met Trump on the sidelines of G-20 Summit in Hamburg, Germany in July 2017 but the Indian establishment thought that such a meet would have happened at a multilateral setting while Modi preferred to go for a bilateral meeting. During the meeting, Modi tried to push the idea that in the era of

America First policy of Trump, India is the best opportunity for USA. Since the nuclear deal between India and USA, USA has understood that India can be a testing lab for new ideas where new partnership can be built without an alliance between the two states but mimicking some characteristics. The Indo-US ties have remained consistent and predictable with an upward swing. For Modi, the visit was to urge the same continuity and consistency as under Trump, White House administration has been a little chaotic and assertive that no state should take old deals for granted in the future. At the end of the meeting, there was a joint statement between the two leaders. For the first time, India and USA have asserted that the two sides are working shoulder to shoulder against terrorism with reference to cross border terrorism. The US has designated Hizbul Mujahadeen leader Syed Salahuddin as a Specially Designated Global Terrorist (SDGT). The joint statement mentions that Pakistani territory should not be used to launch terrorist strikes on other states. During the Obama administration, the two sides had come up with a Vision Document for Asia-Pacific. In 2017, during the meeting of Modi with Trump, the two sides for the first time used the term called Indo-Pacific. The meaning both sides tried to convey through the term Indo-Pacific was that India and USA are both democratic stalwarts and responsible stewards of the Indo-Pacific region. The joint statement also made mentions of freedom of navigation in the seas and peaceful resolution of maritime disputes as per international law. Though USA asserted in the joint statement that India was a major defense partner, there was absence of support for Make in India and co-production (in sync with America First policy of Trump). The two sides decided to establish a new format of 2+2 dialogue for enhancing the diplomatic relations. Under this new 2+2 dialogue, foreign and defense minister's of the two countries will carry out interaction and place the strategic and security relationship on a new center-stage. The 2+2 dialogue provides India and USA a new vehicle to discuss bilateral issues. Though India and USA have more than 60 bilateral institutions to discuss issues; US is concerned about the chronic failure of India to use their potential. US asserts that bureaucratic inertia, legal issues, suspicion by India of motives of US and lack of clarity by India on what India seeks from the Indo-US strategic partnership limits the overall diplomatic interaction with India. At the political level, India feels, that there is lack of a clear vision by US for diplomacy initiatives in Asia. In September 2017, India and USA also held a military exercise called Yudh Abhyas at the Joint Base Lewis McChord in US.



Why US tag of a Specially Designated Global Terrorist (SDGT) for Salahuddin matters?

Mohammad Yusuf Shah or Syed Salahuddin is the chief of Hizbul Mujahadeen (HM) and has been operating in Kashmir region. The US under Executive Order 13224 places persons or groups in the category of Specially Designated Global Terrorist. When such action takes place, any group placed in this category is called a Foreign Terrorist Organisation while the individuals are designated as Specially Designated Global Terrorist. Doing this categorization cuts the financial support for the group. The Office of Assets Control of USA blocks the assets of such individuals and groups. For the first time ever, a Kashmiri terrorist has been designated by US as a global terrorist which means now that Salahuddin is not just a threat to India but to

the entire world. In contrast, if an individual is designated as a terrorist by the UN in the UN Sanctions list (what India has been striving for in the case of Masood Azhar), then such a sanction will be considered a non partisan global sanction.