

Prospects of India's inclusion in the NSG and options for Pakistan

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Abstract

With the Nuclear Suppliers Group (NSG) plenary meeting held in Seoul on June 23-24, 2016, debate on the possible inclusion of non-NPT states has gained momentum, with some opposing the membership, while others suggesting criteria to accommodate non-NPT signatories into the NSG fold.¹ India and Pakistan have formally applied, while Israel is still contemplating, mindful of being left outside the mainstream non-proliferation regime while other states with similar credentials are brought in. If India alone is allowed to become a member of the NSG while Pakistan remains outside, this would not only undermine global non-proliferation norms but cause countries to question the value of engaging with the non-proliferation regime. It is ironic at the same time since it was India whose 1974 nuclear test led to the creation of the NSG previously called London Suppliers Group. The basic purpose of the NSG is to provide a mechanism through which the non-proliferation goal could be achieved, but in the present scenario some of the group members are unanimously supporting a proliferator (India) to be member. The special favors to India are being given in the Grossi-Song nine points formula presented after the extraordinary meeting of the NSG PGs on December 6, 2016 because of the United States' strategic partnership with India. Given its discriminatory agenda favoring India the formula did not go through but ironically, 2016 became remarkable for Group's future outlook and credibility.

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¹“Nuclear Suppliers Group,” *Nuclear Threat Initiative*, July 22, 2016, <http://www.nti.org/learn/treaties-and-regimes/nuclear-suppliers-group-nsg/>

Key Words: Nuclear Suppliers Group, India, Pakistan, Participating Governments, Proliferation, Membership, US.

Introduction

The prevailing trends after Vienna meeting on 23 and 24 June 2016 in Seoul, Republic of Korea (ROK) reveal that both India and Pakistan might encounter tough resistance in getting the membership of NSG in the near future. Many members of the Group seem determined to thwart non-NPT states attempt to join the Group without a criteria-based approach. Nevertheless, New Delhi has been lobbying robustly (with the intense support of Washington and its like-minded countries) since 2010 to get a 'special treatment' by the NSG members. Simultaneously, Islamabad lately seems equally determined to join the NSG viewing the possibility that India's unilateral entry would block Pakistan's candidacy into the cartel. Pakistan sent the formal application for NSG membership just a week after the Indian application on June 9, 2016.² Many analysts have expressed their concerns on a number of issues, including NSG membership and the strategic implications for South Asia. The agony here blows up, just in case a preferential treatment is given to India by keeping the other non-NPT states left out of the group. Therefore it is emphasized to adopt a criteria-based approach than going for a country specific membership that favors India. It should be non-discriminatory and equally applicable to all non-NPT states.

On the other hand, India's membership in NSG carries not merely defense related implications rather it has political dimensions as well. It would not only fulfill India's needs regarding nuclear materials and technology but will also enable India to forge strong international support against Pakistan on various disputes. This paper is an effort to answer questions dealing with the NSG membership for South Asian nuclear weapon states and apprehensions associated with the approach NSG would adopt in this regard.

²Natalya Zamarayeva, "Pakistan and India's NSG Application," *Journal New Eastern Outlook*, May 7, 2016, <http://journal-neo.org/2016/07/05/pakistan-and-indias-nsg-application/>

The study is divided into four sections. The first section discusses the need and reason for multilateral export control regimes in the global nuclear order. The second section is an attempt to examine the shift in US led non-proliferation regime, impact of US-India strategic partnership and its (US) countering China policy. The third section deliberates on India - Pakistan's candidacy for NSG membership and options for Pakistan. The fourth section meditates on the recent criteria drafted by the NSG former Chair, Ambassador Rafael Mariano Grossi. Finally the credibility of NSG has been questioned for future efficacy or trust due to such type of discriminatory initiatives as Grossi formula.

Need for multilateral export control regimes

Since the nuclear age and particularly after the use of nuclear weapons in 1945, the dominant powers of the world have crafted treaties and regimes to maintain a check on spread of nuclear technology. However, ironically, present day's Global Nuclear Order; defined by various treaties/ regimes/ agreements, as enacted one after the other in the wake of failure on part of already established measures to check proliferation, implement disarmament or streamline export of nuclear technology. One of the fundamental strands of the Global Nuclear Order is enforcement of rules related to nuclear technology and material commerce. Currently there are four Multilateral Export Control Regimes: MTCR, NSG, Warrsaner Arrangement and Australia Group. Among all NSG seeks to strengthen nuclear order through strategic trade controls.³

Reason behind NSG formation

The NSG was created as a voluntary group of nuclear exporters among the group members in 1975.⁴ The group was established in response to India's — a non-NPT state May 18, 1974, peaceful nuclear explosion (PNE), named as 'Smiling Buddha'.⁵ India violated its pledge to use the

³Lt. Col. Mushtaq Ali, "Relevance of Nuclear Supply Group in 21st Century," Presentation at National Defence University, Islamabad.

⁴Sameer Lalwani and Shane Mason, "India Needs to Understand the Causes of its NSG Embarrassment," *The Wire*, June 6, 2016, <http://thewire.in/46165/india-needs-to-understand-the-causes-of-it-nsg-embarrassment/>

⁵<https://www.ctbto.org/specials/testing-times/18-may-1974-smiling-buddah>

Canadian-supplied CIRUS research reactor spent-fuel for making plutonium. It has a history of illicit nuclear procurement and inadequate nuclear export controls, and continues to produce fissile material for weapons and to expand its nuclear weapons and missile capabilities more generally.⁶ Thus the Indian violation of peaceful nuclear use resulted in adoption of stringent measures by all the nuclear states to prevent the horizontal proliferation. "The PNE sent shockwaves across the world. Meetings spearheaded by the US and the UK, and backed by Moscow, set up the 'London Club', later renamed the Nuclear Suppliers Group (NSG)."⁷

As a consequence, the preliminary objective of the NSG was to impede its members from assisting India in making nuclear weapons. It has expanded over four decades from 7 to 48 nuclear supplier countries as its members. While reflecting in the cases of granting entry to new members, the cartel has two predominant defined objectives, the first goal is to get all supplier states to adhere to the guidelines; and the second is to reinforce good non-proliferation behavior.

Membership and Administrative Procedures

The member states have agreed that the decision making process of NSG is by consensus along with having equal voting right. Therefore, there is no chance of granting membership to any prospective state without consensus of all the existing member states.⁸ That is the main reason why India is out of the group even after vigorous Western support. Moreover, it has two set of guidelines, each of which was created in response to a significant proliferation event that highlighted shortcomings in the then existing export control systems.

⁶Jim Green, Uranium, India and the Fracturing Nuclear Non-Proliferation Regime," Briefing Paper No. 18, *Energy Science Coalition*, October 2010, <http://www.energyscience.org.au/BP18India.pdf>

⁷G. Parthasarathy, "Failed NSG bid: China is a formidable adversary," *Mail Today*, July 5, 2016. <http://www.dailyo.in/politics/nsg-nina-xi-jinping-npt-pakistan-nuclear-weapons-programme/story/1/11562.html>, accessed on July 20, 2016.

⁸G. Balachandran, Reshmi Kazi and Kapil Patil, "Membership Expansion in the Nuclear Suppliers Group," *idsa.in*, June 22, 2016.

1. Guidelines for nuclear Transfers (INFCIRC/254, Part 1). Since Zangger Committee was already working on nuclear safe transfers, NSG took forward its aim and agreed on a set of Guidelines incorporating a trigger list. These were published in 1978 as International Atomic Energy Agency (IAEA) Document INFCIRC/254 (subsequently amended) to apply to Nuclear Transfers published in 1978 by IAEA for peaceful purposes to help ensure that such transfers would not be diverted to an unsafeguarded nuclear fuel cycle or nuclear explosive activities.⁹ The items on the trigger list are as flashed: Nuclear reactors and their equipment; non-Nuclear material for reactor; plants and equipment for reprocessing; plants and equipment for fabrication of nuclear fuel elements; plants and equipment for separation of isotopes; plants for heavy water production; plants and equipment for conversion.¹⁰
2. Guidelines for transfers of nuclear related dual use equipment, materials, software and related technology, (INFCIRC/254, Part 2).¹¹ In 1992, NSG decided to establish Guidelines for transfers of nuclear-related dual-use equipment, material and technology, which could make a significant contribution to mitigate the misuse of unsafeguarded nuclear fuel cycle or nuclear explosive activity.¹² The items on the trigger list are as flashed: Industrial equipment and Materials; Uranium isotope separation

⁹Nuclear Suppliers Group, Nuclear Threat Initiative, July 22, 2016, <http://www.nti.org/learn/treaties-and-regimes/nuclear-suppliers-group-nsg/>

¹⁰“Guidelines,” *Nuclear Suppliers Group*, <http://www.nuclearsuppliersgroup.org/en/guidelines>

¹¹“Communication received from the Permanent Mission of the Republic of Korea to the International Atomic Energy Agency regarding Certain Member States' Guidelines for the Export of Nuclear Material, Equipment and Technology,” Information Circular INFCIRC/254/Rev.13/Part 1a, *IAEA Atoms for Peace and Development*, November 8, 2016, <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1978/infcirc254r13p1.pdf>

¹²“What you need to know about the Nuclear Suppliers Group,” *Dawn*, June 10, 2016, <http://www.dawn.com/news/1263947>

equipment and components; Heavy water production plant related equipment; Test and measurement equipment for the development of nuclear explosive devices; Components for nuclear explosive devices.¹³

Till 1990 or the end of the Cold War, the NSG did not have any fixed criteria for its membership. The need of adopting a criteria for induction of states was first deliberated in the first ever formal plenary meeting in 1992 held in Warsaw.¹⁴ During the subsequent 1993 Lucerne Plenary, the participating members of the NSG adopted the first procedural Arrangement.¹⁵ According to this, the membership criteria were:

- A. Membership of the Nuclear-Suppliers Group initially consists of the countries adhering to the Nuclear Supplier Guidelines (INFCIRC/254/Rev. 1, Part 1 and 2) and fully participating in the Plenary Meeting in Lucerne in 1993.
- B. Countries other than those referred to in paragraph 1 (a) may be invited to join the NSG by a consensus decision of its members. Consensus may be achieved inter-sessionally by the Chair through regular channels.

¹³“Guidelines,” *Nuclear Suppliers Group*,

<http://www.nuclearsuppliersgroup.org/en/guidelines>

¹⁴Daniel Joyner, “NWS Nuclear Policy and Interpretation of the NPT,” *Interpreting the Nuclear Non-Proliferation Treaty*, Oxford University Press Inc., New York, United States, 2011,

https://books.google.com.pk/books?id=_6MZhjmvwCAC&pg=PA54&lpg=PA54&dq=first+ever+formal+plenary+meeting+in+1992+held+at+Warsaw&source=bl&ots=HTheALFFiY&sig=Sg2RYvGMMCNC3HWae4hD9JSkkUI&hl=en&sa=X&ved=0ahUKEwi4IKeYo_PQAhVEKcAKHe-RAQYQ6AEIODAF#v=onepage&q=first%20ever%20formal%20plenary%20meeting%20in%201992%20held%20at%20WarsawINFCIRC%2F254%2FRev.%201%2C%20Part%201%20and%202&f=false

¹⁵Press Statement, Archive - Arms control contracts, Berlin Information Center for Transatlantic Security (BITS), <http://www.bits.de/ac-archive/6pr/on/nsg/1993-Press.pdf>

- C. While it is understood that prospective members would, as a rule, adhere to INFCIRC/254/Rev. 1 in its entirety before being considered for membership, it would also be possible to invite adherents to part 1 of INFCIRC/254/Rev. 1 to participate in the Plenary Meetings prior to their adherence to Part 2. Until these countries have adhered to Part 2, they will only take part as Observers in Plenary Meeting discussions on issues related to Part 2.¹⁶

The NSG members had made the criteria further stringent for new members during their May 10-11, 2001 Aspen, Colorado, United States Plenary meeting.¹⁷ It is defined as:

“To be eligible to become a new NSG Participating Government, a government must have adhered to the Guidelines for the Export of Nuclear Material, Equipment and Technology, and the Guidelines for Transfers of Nuclear Related Dual-Use Equipment, Materials, Software and Related Technology. Such adherence is accomplished by sending an official communication to the Director-General of the IAEA stating that the government will act in accordance with the Guidelines. This communication is to be intended for publication in the INFCIRC series.”¹⁸

According to it, the requirements are the following:¹⁹

- The candidate ought to have the ability to supply items (including items in transit) covered by the Annexes to Parts 1 and 2 of the NSG Guidelines;

¹⁶G. Balachandran, Reshmi Kazi and Kapil Patil, “Membership Expansion in the Nuclear Suppliers Group,” Special Feature, Institute for Defence Studies and Analysis, New Delhi, June 22, 2016. http://www.idsa.in/specialfeature/membership-nuclear-suppliers-group_gbalachandran_220616, accessed on August 2, 2016.

¹⁷Zafar Nawaz Jaspal, “India-Pakistan Candidacy for NSG.”

¹⁸“Nuclear Suppliers Group,” *Civil Services Mentor Magazine*, June 2016. <http://iasexamportal.com/civilservices/magazine/csm/june-2016/nuclear-suppliers-group>, accessed on August 2, 2016.

¹⁹Nuclear Suppliers Group, *Nuclear Threat Initiative*, July 22, 2016, <http://www.nti.org/learn/treaties-and-regimes/nuclear-suppliers-group-nsg/>

- It's adherence to the Guidelines and action in accordance with them;
- The applicant should ensure enforcement of a legally based domestic export control system which gives effect to the commitment to act in accordance with the Guidelines;
- The NSG aspirant express adherence to one or more of the NPT, the Treaties of Pelindaba, Rarotonga, Tlatelolco, Bangkok, Semipalatinsk or an equivalent international nuclear non-proliferation agreement, and full compliance with the obligations of such agreement(s); and
- The applying state supports international efforts towards non-proliferation of Weapons of Mass Destruction and of their delivery vehicles.²⁰

Non-Proliferation Regime and the West

NSG plays an indispensable role that governs the set of provisions for both nuclear exports and nuclear-related exports. Gradually, the NSG makes sure that it keeps itself updated, effective and credible. Currently, NSG seems to have increased its credibility much more by making sure that its members would follow the strict guidelines by not exporting the nuclear related technology to both nuclear and non-nuclear weapons states if they are sure that these nuclear related items/technology/materials could be diverted for nuclear weapons program. NSG confronts critical issues with regard to its long lasting efforts for meeting the principles of non-proliferation, disarmament and peaceful uses of nuclear technology.²¹

An ironical incongruity is that the US and India have concluded a strategic partnership in economic, political and military domains. The US is encouraging the buildup of the Indian military and is conniving

²⁰Zafar Nawaz Jaspal, "India-Pakistan Candidacy for NSG," *Journal of Security and Strategic Studies*, Vol. 2, No. 1.

²¹Dr. Zafar Khan, NSG Norms, Non-Proliferation Regime: Critical Issues and Criteria, Conference paper: Arms Control, Disarmament, Non-Proliferation and International Security in 2016, Strategic Vision Institute, October 27, 2016.

On the nuclearization of the Indian Ocean.²² Since the US is having defense and nuclear cooperation deals with India, it has been the main force behind Delhi's NSG bid here. The Indo-US nuclear deal and the subsequent NSG waiver for India for that reason had affected the region in terms of derailing the India-Pakistan dialogue on nuclear issues, destabilizing regional security, and undermining the global non-proliferation regime. Pragmatically the deal has actually marked a paradigm shift in the US non-proliferation policy due to its own strategic considerations. Such a major paradigm shift in the US policy is the manifestation of the 'Realist Strategic Thinking' in the US. The US 'Realism' is focused on 'Countering China Policy'. Whereas, China's active role in denying NSG membership to India is a 'Chinese Realism' response to the 'US Realism' regarding its strategic interests in the region. China's opposition to India's membership in NSG is part of its strategic interests including relationship with Pakistan. However, Chinese support to Pakistan's stance should not be taken for granted. This may not be the same case in the future if Pakistan itself does not take any prudent measures. In realpolitik, there are neither permanent friends nor permanent enemies; the only thing that prevails is the national interest.²³

The fact should not be denied that China is the largest trading partner of India. China's trade volume with India itself may provide leverage to India for getting Chinese nod for entry into NSG. Although the US support to India aims at countering China but there are little chances of confrontation like that of Cold War between China and the United States. Rather, there are greater incentives for engagement among the three if an agreement regarding strategic interests could be sorted out.²⁴

²²Rajeswari Pillai Rajagopalan & Arka Biswas, "Military Build-up in the Indian Ocean: Implications for Regional Stability," *Observer Research Foundation (ORF)*, India, Occasional Paper, October 12, 2015, <http://www.orfonline.org/research/military-build-up-in-the-indian-ocean-implications-for-regional-stability/>

²³Dr. Shahid Bukhari, paper presented "Indo-US Nuclear Deal: Politics of the NSG and Its Implications for Pakistan," SVI monthly in-house Series, *Strategic Vision Institute*, Islamabad, July 2016.

²⁴Ibid.

Candidacy of India and Pakistan

The nature and character of the non-proliferation regime (NPR) has been altered from its innovative status due to the P5 nuclear weapon states (NWS), especially the United States' discriminatory use of the Western led NPR as an instrument to pursue its own foreign and strategic policy objectives such as the Indo-US Nuclear Deal. India is being propped up as a 'pivot' in the Asia Pacific strategy of the US.²⁵ It has already been analyzed above that its aim is to assist India to become a rival great-power to China. Therefore, it is now being hectically supported to become a full member of the Nuclear Supplier Group (NSG). Hence it is imperative to deliberate on the prospects of India's inclusion in the NSG and the options and way forward for Pakistan in the face of currently prevailing challenges.

If India is included in the NSG

India's application could not acknowledge a confirmatory response from a few members of the Group, yet it leaves the impression that New Delhi is determined to try for the full membership of NSG. Like the Seoul plenary meeting of June 23-24, 2016 failed to reach a consensus among the 48 members cartel, the recent consultative group's meeting also could not reach any consensus with regards to India's bid for NSG.²⁶

Nevertheless, if India is brought into the NSG and Pakistan is left out, it would be another act of discrimination based on short-sighted commercial and strategic interests. India has not fulfilled its major commitments given to the United States as part of the 2005 civil nuclear deal such as working for the conclusion of the Fissile Material Cutoff Treaty.²⁷

²⁵Muhammad Shafiq, "Emerging Trends in Geo-politics of Asia Pacific Region," *IPRI Journal XIV*, no. 1 (Winter 2014): 81-101, <http://www.ipripak.org/wp-content/uploads/2014/04/Article-no.5-Mohd-Shafiq.pdf>

²⁶Mark Fitzpatrick, "India is kept waiting for admission to Nuclear Suppliers Group," *International Institute for Strategic Studies (IISS)*, June 13, 2016, <https://www.iiss.org/en/politics%20and%20strategy/blogsections/2016-d1f9/june-ccc4/india-is-kept-waiting-for-admission-to-nuclear-suppliers-group-dd84>

²⁷Proposed Fissile Material (Cut-off) Treaty (FMCT)," *Nuclear Threat Initiative*, October 30, 2016, <http://www.nti.org/learn/treaties-and-regimes/proposed-fissile-material-cut-off-treaty/>

(FMCT) and separating²⁸ its military and civilian reactors.²⁹ Yet, it is again being considered for exceptional treatment. Contrary to its promise that it will work towards the conclusion of FMCT, India has not even considered unilateral moratorium to freeze its fissile material production. According to a recent report by the Belfer Center, India seems to have done the opposite, and expanded its fissile material production capacity.³⁰ Instead of discouraging India, the United States and other major suppliers that have entered into nuclear cooperation agreements with it are pleading India's case for NSG membership.

Pakistan's bid

Though Pakistan's ongoing political and diplomatic efforts are intended to create space for itself in the NSG, it does qualify for civil nuclear trade in legal terms. It would be pertinent to mention here that Pakistan has recently ratified the 2005 Amendment to the CPPNM on March 21, 2016.³¹ The provisions to which the CPPNM obligates the parties to are given as: 1. Make specific arrangements and meet defined standards of these materials will be protected during international transport in accordance with the levels of protection determined by the Convention; 3. Co-operate in the recovery and protection of stolen nuclear material, by sharing information on missing nuclear materials; 4. Criminalize specified acts, including misusing or threatening to misuse nuclear

²⁸Kalman A. Robertson & John Carlson, "The Three Overlapping Streams of India's Nuclear Programs," Kennedy School, *Belfer Center for Science and International Affairs*, April 2016, <http://belfercenter.ksg.harvard.edu/files/thethreesoverlappingstreamsofindiasnuclearpowerprograms.pdf>

²⁹Zahid Ali Khan, "Indo-US Civilian Nuclear Deal: The Gainer and the Loser," *South Asian Studies*, Vol. 28, No. 1, January – June 2013, pp.241-257, http://pu.edu.pk/images/journal/csas/PDF/17_V28_1_2013.pdf

³⁰Ibid.

³¹"Pakistan Ratifies 2005 Amendment to the Convention on the Physical Protection of Nuclear Material," Press Release, No. 103/2016, *Nuclear Security Summit*, March 23, 2016, <http://www.nss2016.org/news/2016/3/23/n82o715o8aib4avkx30o8tdz63da6x>

materials to harm the public; and 5. Prosecute or extradite those accused of committing such acts. States Parties undertake to include those offenses as extraditable offenses in every future extradition treaty to be concluded between them.³² While submitting its application for NSG membership, Pakistan outlined its credentials such as harmonization of its export control lists with those of the international export control regimes, its efforts to ensure nuclear security and safety,³³ and its adherence to NSG guidelines.³⁴ Likewise Pakistan's Ambassador at Vienna³⁵ said "seeking participation in the export control reflects Pakistan's strong support for international efforts to prevent the proliferation of weapons of mass destruction and their means of delivery."³⁶

Even though Pakistan wishes to be included in the NSG cartel on the basis of merit, it also wants to draw attention to the issue of discrimination regarding group's membership.³⁷ India is being treated on favorable terms, with laws amended and waivers granted to accommodate it.³⁸

³²Beenish Altaf, "IAEA's morality and CPPNM's veracity," *Daily Times*, April 22, 2016, <http://dailytimes.com.pk/opinion/22-Apr-16/iaeas-morality-and-cppnms-veracity>

³³"Pakistan Ratifies 2005 Amendment to the Convention on the Physical Protection of Nuclear Material,"

PR. No.103/2016, *Nuclear Security Summit 2016*, March 23, 2016,

<http://www.nss2016.org/news/2016/3/23/n82o715o8aib4avkx30o8tdz63da6x>

³⁴"Move on export control of sensitive technologies, goods praised by US," *Dawn*, September 17, 2015, <http://www.dawn.com/news/1207461>

³⁵Mariana Baabar, "Pakistan submits formal application for NSG membership," *News International*, May 21, 2016, <http://www.thenews.com.pk/print/121627-Pakistan-submits-formal-application-for-NSG-membership>

³⁶Anwar Iqbal, "Pakistan's application for NSG to be decided by consensus: US," *Dawn*, May 29, 2016, <http://www.dawn.com/news/1261318>

³⁷Adil Sultan, "India and the NSG," *News International*, April 25, 2016, <http://www.thenews.com.pk/print/115098-India-and-the-NSG>

³⁸Saima Aman Sial, "Nuclear Suppliers Group: Impact of India's Membership," *South Asian Voices*, May 31, 2016, <http://southasianvoices.org/nuclear-suppliers-group-impact-of-indias-membership/>

It is so despite the fact that India's diversion of nuclear material and equipment for the so-called peaceful explosion of 1974 was the prime reason behind the creation of NSG.³⁹ It was created to prevent the diversion of nuclear material from civilian trade to military purposes with seven suppliers of advanced nuclear technology, i.e., United States, United Kingdom, Canada, France, Japan, West Germany, and Soviet Union getting together to form a cartel to control nuclear technology supplied for peaceful uses. India violated its obligations with Canada, diverting plutonium from the Canadian-Indian reactor that was being run with the US heavy-water, which was provided purely for peaceful purposes.⁴⁰

Options for Pakistan⁴¹

- In view of the strong opposition from several countries, it is likely that both India and Pakistan may not be accepted into the NSG in the immediate future. The year 2016 counts two meetings that went off without reaching to any certain point in this regard. However, if the United States once again coerces the NSG participating governments, as it did in 2008, Pakistan would not have any choice but to review its engagement with the international nonproliferation regime, which is increasingly becoming a tool to serve only the interests of major powers;
- As a responsible nuclear state and a country in dire need of nuclear technology to meet its growing energy needs, Pakistan should remain constructively engaged with the global

³⁹Naveed Ahmad, "Why are NSG berths crucial for nuclear Pakistan, India?," *Express Tribune*, April 17, 2016, <http://tribune.com.pk/story/1086536/why-are-nsg-berths-crucial-for-nuclear-pakistan-india/>

⁴⁰"18 MAY 1974 - Smiling Buddah," Comprehensive Test Ban Treaty Organization," <https://www.ctbto.org/specials/testing-times/18-may-1974-smiling-buddah>

⁴¹Beenish Altaf, "Nuclear Suppliers Group and Pakistan's Options," *South Asian Voices*, June 3, 2016, <https://southasianvoices.org/nuclear-suppliers-group-pakistans-options/>

nonproliferation regime, so that along with China, it could qualify for civil trade with other states also. Nevertheless, this relationship cannot be based on unilateral commitments and obligations;

- After the India-specific NSG exemption in 2008, India reportedly began a massive expansion of its nuclear program, including military facilities.⁴² It is believed that since civilian facilities were supplied with foreign fuel, India had the option of using its indigenous stockpiles for military purposes. This seems to have helped India's bomb-making potential, and has disturbed regional stability. Pakistan should continue to take measures to ensure that strategic stability is maintained, without getting into an arms race;⁴³
- The other option for Pakistan could be to start a diplomatic campaign to convince the NSG members of its needs and capabilities, and simultaneously highlight India's non-adherence of the promises made as part of the nuclear deal with the United States;
- Pakistan should continue nuclear cooperation with China, while also focusing on economic development to attract other nuclear vendors to explore commercial benefits in the country; and Pakistan should engage China through such incentives that could contribute to sustain Chinese support for Pakistan;
- Pakistan should continue to refuse to sign the Nuclear Nonproliferation Treaty (NPT) and the Comprehensive Test Ban Treaty (CTBT) unless India signs it first for ensuring regional security;

⁴²Mansoor Ahmad, "Reactors, Reprocessing & Centrifuges: India's Enduring Embrace of Fissile Material," *South Asian Voices*, June 26, 2014, <http://southasianvoices.org/reactors-reprocessing-centrifuges-indias-enduring-embrace-of-fissile-material/>

⁴³Adrian Levy, "India Is Building a Top-Secret Nuclear City to Produce Thermonuclear Weapons, Experts Say," *Foreign Policy*, December 16, 2015, http://foreignpolicy.com/2015/12/16/india_nuclear_city_top_secret_china_pakistan_barc/

- Pakistan should not give in to Western "double standards", and keep calling for an unbiased criteria-based approach for inclusion into the NSG group;⁴⁴
Pakistan should put its own house in order and project itself as
- one of the largest countries of the world having great investment incentives for the international community. Catering support for Pakistan should not only be focused on barring India from the
- membership but should also aim at catering support for Pakistan's entry into the club. Pakistan needs to adopt 'Proactive Diplomacy' rather than 'Reactive Diplomacy';
- Last but not the least, Pakistan can wait for a more appropriate time to secure membership, while it continues to support international non-proliferation efforts.

Time slot to work in:

2016 was the first year that had two NSG meetings in a year, i.e., NSG plenary in June and Consultative Group's meeting in November 2016 discussing mainly India's NSG bid. Both concluded without any consensus on the decision about candidacy of India and Pakistan in the NSG. The time slots for Pakistan that should be capitalized are:

1. First is the time slot till the next plenary meeting of NSG; this time should be capitalized in promoting Pakistan's prospects regarding NSG membership through proactive diplomatic and political initiatives for support across the 48 NSG nations.
2. Second window of opportunity comes in the backdrop of slow-pace developments in Indo-US nuclear cooperation. Pakistan has sufficient time to strengthen its politico-economic engagement with the rest of the world in general and with China in particular till the India-US nuclear deal gets further materialized.⁴⁵

⁴⁴Saqir Sajjad Syed, "China won't let India gain entry into NSG," *Dawn*, April 14, 2016, <http://www.dawn.com/news/1251947>

⁴⁵Dr. Shahid Bukhari, paper presented "Indo-US Nuclear Deal: Politics of the NSG and Its Implications for Pakistan," SVI monthly in-house Series, *Strategic Vision Institute*, Islamabad, July 2016.

Grossi-Song formula

Since the June 2016 Plenary failed to lay down criteria for NSG membership, China took a principled position that there should be criteria-based approach for NSG membership aspirant countries. However, the stalemate continued during the extraordinary NSG's consultative meeting in November at Vienna, except that only China came out with a two point approach for inclusion of non-NPT states into the NSG, i.e., to find out a solution that is applicable to all the applicants who are not signatory to the NPT, with the process of consultations and then discuss the specific application of relevant non-NPT country. Turkey Austria, Ireland Italy, Belarus, Kazakhstan, and Belgium took the same stance as that of China. The serious blow was the stance of few other states i.e., Brazil, New Zealand and Switzerland that earlier stated to oppose India's membership but later denied. In this regard, there were almost of 12 Participation Governments (PGs) that supported China's proposal and 12 opposed the initiative favoring Western stance of Indian biasness, while remaining 24 PGs did not take any substantial position either way.⁴⁶

Previously, at the June plenary, NSG Chair was tasked to come up with a transparent consultation process with all the PGs to agree on a criteria without being inclined in India's favor. An outcome of this is the revised version of a draft 'Exchange of Notes' for Non-NPT applicants outlined by the former NSG Chair, Ambassador Rafael Mariano Grossi of Argentina and the current Chair, Ambassador Song Young-wan of South Korea on December 6, 2016.⁴⁷ It is a nine point commitment, which not only gives special favor to India but at the same time is harming Pakistan's case for the NSG membership. The Grossi-Song formula did not even consult China and many other divergent PGs including Turkey, New Zealand, Brazil, Ireland, Austria, Belarus, Italy and Switzerland. Even Russia apprehended the criteria calling for more consultations among the PGs and greater transparency in procedural aspects.⁴⁸

⁴⁶“Ahead of NSG meet in Vienna, China refuses to budge on India's bid,” *Times of India*, November 7, 2016, <http://timesofindia.indiatimes.com/india/Ahead-of-NSG-meet-in-Vienna-China-refuses-to-budge-on-Indias-bid/articleshow/55290720.cms>

⁴⁷“Draft Proposal Boosts India's Chances For Entry Into NSG,” *Indiandefense News*, December 30, 2016, <http://www.indiandefensenews.in/2016/12/draft-proposal-boosts-indias-chances.html>

⁴⁸Ali Sarwar Naqvi, “Manoeuvres for NSG Entry,” *News International*, December 23, 2016, <https://www.thenews.com.pk/print/173783-Manoeuvres-for-NSG-entry>

Though the Grossi proposal did not break the logjam in the process of NSG membership process, its conditions have nothing new to make India bound of. For instance, Daryl Kimball of the Arms Control Association points out “this formula would not require India to take any additional non-proliferation commitments beyond the steps to which it consented in September 2008” as a result of India-US nuclear trade exemptions.⁴⁹ Likewise he said: “any further country specific exemption from NSG guidelines for trade and/or membership without compensating steps to strengthen non-proliferation and disarmament would increase nuclear dangers in South Asia, and weaken the NSG and the broader nuclear non-proliferation regime”.⁵⁰

Since Pakistan's credentials for membership are equivalent to that of India's' if not better than it, so realistically the proposal's point stating that India will not obstruct any non-NPT country's membership in NSG, is simply unjustified because this can be done by any ally country on India's behest. India has not to do that inevitably itself. Pakistan has later in the year 2016 proposed a bilateral test ban to India (one commitment from Grossi's nine points) that it refused to sign. Nevertheless, if the said criterion would have been acceptable to Pakistan, it would most probably neither have any apprehensions in signing an additional protocol on its civilian facilities nor on accepting a separation plan over its military and civilian programs that is technically already operating separately.⁵¹ The only additional step would have been to bring these measures under the IAEA formal considerations. If done so, these steps can strengthen Pakistan's case where the Western mixture of incentives tries to bring-in India, making it difficult for Pakistan's candidature.

⁴⁹Daryl G. Kimball, “NSG Membership Proposal Would Undermine Nonproliferation,” *Arms Control Association*, December 21, 2016, <https://www.armscontrol.org/blog/ArmsControlNow/2016-12-21/NSG-Membership-Proposal-Would-Undermine-Nonproliferation>

⁵⁰Zameer Akram, “NSG Deadlock,” *Express Tribune*, December 30, 2016, <http://tribune.com.pk/story/1279755/nsg-deadlock/>

⁵¹“Process for NSG membership politicized: Pakistan,” *Dawn*, December 31, 2016, <http://www.dawn.com/news/1305484>

Question of Credibility for NSG

Due to the double standards and inability to reach any consensus on the India – Pakistan candidacy issue, NSG credibility and integrity is being compromised. Despite of successfully expanding its members the non-proliferation regime itself and the NSG has too many escape boards. For instance, previously the NPR could not halt India's nuclear weapons test, neither in 1974 nor of 1998 tests. Likewise, the Indo-US so-called civil nuclear deal followed by the NSG waiver to India is taken as a critical matter of concern when one discusses credibility of the NSG. It is a well known fact that India has not agreed to the comprehensive safeguards in its claim to of following the IAEA's additional protocol.⁵² The credibility of the NPR and NSG would be questioned once again when India would carry out more NWS test after getting the membership. The NSG PGs supporting India's candidature failed to influence China and France to ratify the NPT in the early years of its creation. Both the states joined the Treaty in 1992.⁵³

Last but not the least; in order to sustain the norms and credibility of these multi-lateral export groups of nuclear non-proliferation regime, the non-proliferation regime itself needs to promote the ideals of strategic restraint regime and avoidance of nuclear war. It is in the realization of their normative postures that the non-proliferation regimes including the NSG will have the chances of survival.

Recommendations for the NSG

The Chinese delegation in November 2016 Vienna meeting pointed out that 'the solution to the NSG accession should be non-discriminatory, applicable to all non-NPT members and must not damage the core values of the NSG as well as the authority, effectiveness and integrity of

⁵²Brahma Chellaney, "India-IAEA Safeguards Agreement Fact Sheet," *Challaney.net*, July 12, 2008, <https://chellaney.net/2008/07/12/india-iaea-safeguards-agreement-fact-sheet/>

⁵³"Fact Sheets and Brief: Timeline of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)," *Arms Control Association*, <https://www.armscontrol.org/factsheets/Timeline-of-the-Treaty-on-the-Non-Proliferation-of-Nuclear-Weapons-NPT>

the NPT'.⁵⁴ NSG comes across a complex decision making dilemma. While the NSG members unanimously consider India's NSG's membership with the aim to strengthen the norms and values, then it is equally imperative for NSG to consider Pakistan's membership as well. Nevertheless, as long as the NSG's policies creates a bar for both India and Pakistan to become members without being Party to the NPT, there are some of recommendations for both the NSG:

1. There could be a possibility that the NPT may recognize both India and Pakistan as nuclear weapons states before they think of joining the NPT. With the passage of time, the NSG and NPT could eventually recognize these nuclear weapons states with the ultimate motive to strengthen the non-proliferation regime in the interim only, if India and Pakistan administer their nuclear weapons program more responsibly.
2. Owing to the fact that with the current NSG guidelines, there is no prospect of India and Pakistan joining the group so, to revise the NSG guidelines by creating a little flexibility could be recommended here. It may allow the two nuclear weapons states entry to NSG while remaining outside the NPT, but of course agreeing to international treaties and safety conventions. Wherein, at present there is no option of India and Pakistan to join the NSG as non-nuclear weapons states, Party to the NPT. In the international and nuclear politics, states would always go for effective cost and benefit analysis as to how much they are winning and losing before becoming part of the treaty.
3. Another fundamental critical issue for the NSG in general and the non-proliferation regime in particular, is the NSG's principle of non-proliferation, disarmament and the use of peaceful nuclear technology. The issue of disarmament still remains at large. Fissile Material Control Treaty is just a proposed treaty. The CTBT is yet to be enforced. The Prevention on Arms Race in the Outer Space (PAROS) is still an outstanding issue in the Conference on Disarmament (CD). None of the nuclear weapons state has yet any

⁵⁴Ali Sarwar Naqvi, "Manoeuvres for NSG Entry," *Center for International Strategic Studies*, December 23, 2016, <http://ciss.org.pk/articles/manoeuvres-for-nsg-entry/>

commitment to disarm completely rather they are engaged in the modernization of their weapons in or the other way by retaining their deterrent forces.⁵⁵

Conclusion

Undoubtedly, the US acted irresponsibly in India's favor without considering the long-term impact of their policies for the region. This acquiescence of nuclear powers will undermine the global non-proliferation regime. The US wants India to be recognized as a legitimate nuclear weapon state which is at par with other P5. The only reason why India got declined the NSG membership till now is the comprehensive safeguard agreement for the non-nuclear weapon states of NPT so these agreements are not applicable on India or Pakistan.

Though Pakistan desires NSG membership, it arguably applied this time mostly in response to India's application. From Pakistan's perspective, standing up to discrimination is important. Indian entry into the former 'London club' (now NSG) would be a destabilizing factor for South Asian security as Pakistan will be kept out once India gets in, and it will have negative fallout on the nonproliferation regime at the international level. As Adil Sultan argues: "the responsibility for the eventual demise of the remaining non-proliferation norms will lie with the NSG and the major powers that are supporting India's entry into the NSG."⁵⁶ Also, despite the eagerness of the United States, there are still some states opposing India's NSG induction, and because the group takes decisions by consensus.⁵⁷ Hence, for Pakistan, things would continue the same way, and the status quo is likely to be maintained. It is time for PGs to restore the NSG's credibility by adopting a criteria-based approach for adding states without giving country-specific waivers, as

⁵⁵Dr. Zafar Khan, NSG Norms, Non-Proliferation Regime: Critical Issues and Criteria, Conference paper: Arms Control, Disarmament, Non-Proliferation and International Security in 2016, *Strategic Vision Institute*, October 27, 2016.

⁵⁶Adil Sultan, "India and the NSG," *News International*, December 23, 2016, <http://www.thenews.com.pk/print/115098-India-and-the-NSG>

⁵⁷China as well as some European countries, such as Ireland, the Netherlands and Switzerland, have not given in yet can be seen at <http://tribune.com.pk/story/1086536/why-are-nsg-berths-crucial-for-nuclear-pakistan-india>

this will only weaken the global nonproliferation regime. The NSG should not walk away from its founding principles.⁵⁸

To conclude, both South Asian nuclear weapons states remain optimistic about the membership of NSG in the near future. This is so because instead of rejecting their applications for membership of the Group, the members of NSG have shelved the matter for future deliberations. Nevertheless, Pakistan can survive without the NSG membership but it is necessary for Pakistan to be acknowledged, accepted and treated as a nuclear weapon state by the international community as is India.

Lastly, following a negative backlash to the recent Grossi-Song formula, Pakistan has achieved a 'tactical success'⁵⁹ by halting another preferential waiver to India. This is in response to its firm struggle by the principled countries for the last few months that should be continued till the conclusion of any draft criteria acceptable to all PGs. It is because of the largely unacceptable Grossi formula that the scheduled informal NSG meeting for end December 2016 is postponed till mid January or February 2017 so that an effective proposal could be develop with transparent and comprehensive consultations among all the participating governments.

⁵⁸“IPS Speakers urge NSG to adopt “non-discriminatory, criteria based approach,” *Pakistan News Express*, June 27, 2016, <http://pakistannewsexpress.com/story/ips-speakers-urge-nsg-to-adopt-non-discriminatory-criteria-based-approach/>

⁵⁹Ali Sarwar Naqvi, “Manoeuvres for NSG Entry,” *News International*, December 23, 2016, <https://www.thenews.com.pk/print/173783-Manoeuvres-for-NSG-entry>