

India and NSG: Approaches to Indian membership

G. Balachandran

Dr. G. Balachandran is Consulting Fellow at the Institute for Defence Studies & Analyses (IDSA), New Delhi.

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Summary

India's admission to the Nuclear Suppliers Group (NSG) has, as on the previous times when the India-US Nuclear Deal and the NSG exemption of 2008 were under discussion, caused many of those opposed to the Indian nuclear programme to come out with various policy suggestions on how to get India to agree on additional conditionalities for such membership. In addition there is a move by many of these groups to use the Indian admission for membership as a means to legitimize the illegitimate and illegal nuclear commerce between China and Pakistan. All these are predicated on the assumption that India is desperate to join the NSG. That is not the case and India should definitely reject any move by a section of the nonproliferation fundamentalist lobby to devise a criterion-based admission procedure riding on the Indian application. India's admission should be treated on its own merit.

India's membership is one of the important issues facing NSG in the immediate future. There is, of course, also the issue of further expansion of the NSG in the coming years, which needs to be looked into by the NSG members. Factors that need to be considered by the NSG Participating Governments (PGs) while considering admission of new States were last finalized by the NSG members during their 2001 Aspen Plenary. These were:

"A new Participating Government should:

1. be able to supply items¹ covered by the Annexes to Parts 1 and 2 of the Guidelines;
2. adhere to and act in accordance with the Guidelines;
3. have in force a legally-based domestic export control system which gives effect to the commitment to act in accordance with the Guidelines;
4. be a party to the NPT, the Treaties of Pelindaba, Rarotonga, Tlatelolco or Bangkok or an equivalent international nuclear non-proliferation agreement, and in full compliance with the obligations of such agreement(s), and, as appropriate, have in force a full-scope safeguards agreement with the IAEA;
5. be supportive of international efforts towards non-proliferation of weapons of mass destruction and of their delivery vehicles."

There are three ways in which a new State's admission to NSG can be approached.

First, the Applicant State feels that it fulfills all the factors considered by NSG members and indicates a desire to become a member according to the procedure laid in the NSG Procedural arrangement i.e. "indicate its desire to do so to the current NSG Chair directly or through the Point of Contact."

If, however, a State feels that it does not fulfill all the factors or does not make a formal application for membership, it is quite in order for a PG to recommend a State for admission.

There are basically two ways that the admission of the recommended State to the NSG could be accomplished. The first is to "evolve the criteria for admission," i.e. to revise the "Factors to be Considered" as set forth in the Procedural Arrangement, in a manner that would accurately describe that State's situation. The second is to recognize/consider that the factors "should be considered by Participating Governments" and are not mandatory criteria that must be met by any proposed candidate for NSG membership. The Procedural Arrangement does not require that a candidate meet all of the stated criteria. For that

¹ includes transit items

reason, NSG PGs could simply take a decision by consensus to admit the State based on that State's support for the nuclear nonproliferation regime and its nonproliferation behavior. This was the procedure recommended by the US when it forwarded to NSG members India's case for admission to NSG membership because it was felt in some quarters that India did not fulfill one of the "factors" that were to be considered, namely, "be a party to the NPT". (It shall be argued in the second part of this article that India does fulfill all the factors, including Factor No.4.

While most of NSG members are in favour of admitting India as a member via the second route proposed by US, i.e., admit "India based on India's support for the nuclear nonproliferation regime and its nonproliferation behavior", there are few NSG members who are not enthusiastic about India's admission as a member. Since NSG works on consensus principle, all members should be in favour of the proposal to admit that State (at least no one should oppose it).

Objection to admitting India seems to be based on two counts:

First, among those who belong to the camp of non-proliferation fundamentalists - who had earlier also opposed the NSG waiver on nuclear commerce given to India - the objection is based on their aversion to admitting India alone as a one-off case. According to them India's admittance must be criterion-based, which can be used (i) to impose additional conditionality on India - which would be in addition to those accepted by current members and (ii) impose on India conditions which would be unacceptable to India under normal circumstances -such as signing CTBT/moratorium on Fissile material production etc. At the very least they expect to keep India away from NSG by such tactics. It is altogether another matter that they can cite any reason why India should aspire to NSG membership under such conditions.

Secondly, there are few NSG members, as well as some outside nonproliferation fundamentalists who encourage these members - who also subscribe to this idea of criterion-based admittance, not as a matter of principle but because they have their own candidates(s) who they would like to be admitted as NSG members. China, which is no friend of India and which has been engaging in nuclear commerce with Pakistan in violation of its commitment to NSG Guidelines would like to use its veto power on admissions to bring in Pakistan as member of NSG in return for its yes vote on India's case. Already a number of such criterion-based proposals are making rounds. Some are open in their championing of criterion-based admission procedure as a way to get Pakistan into NSG. Indeed the title of one such proposal is "A Criteria-Based Approach to Nuclear Cooperation with Pakistan."

What does all this mean for India?

First of all there is a misperception in many circles, especially those opposed to the Indian nuclear programme that India is desperate to join the NSG. Nothing could be farther from the truth. India's desire to be a NSG member flows from its conviction that the NSG is a

useful forum to advance non-proliferation objectives and further that India can contribute positively towards that end by being a NSG member. It does not stand to gain anything specific from membership in the NSG. While in the short term, with the 2008 NSG exemption, India's civil nuclear programme got a boost, improving the capacity factor through supply of fuel for the NPPs to overcome temporary shortage of nuclear fuel, India's long term civil programme is predicated on its fast reactor and thorium programmes which are independent of NSG exemption. Therefore, while it would certainly welcome the NSG membership, India is in no manner desperate to join it. India does not stand to gain anything specific from membership in NSG.

Second, neither does India stand to lose anything by not being in the NSG. After all the NSG was formed as a result of the 1974 Indian nuclear test with many NSG actions designed to halt or cripple the Indian nuclear programme without any success. So India can easily accommodate itself to being outside of the NSG without any consequence.

It could be argued equally that the NSG does not stand to gain anything specific from Indian membership. Unlike some other, current and potential members, India has always been attentive towards global non-proliferation norms and has been scrupulous in preventing any proliferation even when it was not part of the NSG. On the contrary it was a target of the NSG. There is no reason to believe that India's commitment to global non-proliferation norms will in any manner diminish if it is not part of the NSG and therefore, the NSG does not stand to gain anything by Indian membership in its non-proliferation goals.

On the other hand, the NSG would certainly gain a valuable member in its efforts to contain nuclear proliferation through international commerce in equipment, systems, components and technologies controlled by the NSG Guidelines. As explained elsewhere neither India's membership in NSG nor its absence will have any impact on the evolution of the civil nuclear programme with the NSG exemption already in place. Therefore, while membership in NSG may have some symbolic political value in real terms membership in NSG will contribute very little in substantive terms.

However, the NSG stands to lose irreparably its credibility as an effective non-proliferation encouraging multilateral arrangement if it adopts the criterion-based admission procedure put forward by some of the advocates of such procedure. Why?

There has been substantial nuclear cooperation - in both civil and strategic nuclear areas - between China and Pakistan. In respect of civil nuclear cooperation, about which is already well known, it was in violation of the the NSG Guidelines. At the time China joined the NSG as a member in 2004, there was only one agreement between China and Pakistan for the supply of two 300 MWe reactors. The NSG Guidelines prohibit nuclear commerce between NSG members and countries that do not have IAEA fullscope safeguards. Nevertheless China concluded an agreement with Pakistan to supply two 340 MWe reactors

to Pakistan in late 2008. At that time it was reported that China had given an assurance to NSG members in 2004 of its admission to the NSG that it had no agreement with Pakistan to supply any reactors other than the two that were contracted before its admission to NSG. According to PAEC (Pakistan Atomic Energy Commission) documents, at the time of the agreement for Chashma 3 and 4, the PAEC had felt that this project “will help to unshackle the Nuclear Supplier Group’s embargos on Pakistan in a very short time frame, and prompt other NPP suppliers to follow suit”. This did not happen.

Now there are reports that new nuclear reactor supply agreement has been signed between China and Pakistan. There is no reason to doubt such reports. However, contrary to these reports this agreement is not for the supply of additional reactors at Chashma but for new 1000 MWe reactors at Karachi.

The Pakistan Energy Security Plan 2005 had planned for 600 MWe and 1000 MWe NPPs. But China, according to PAEC documents, had expressed its inability to supply either of these two NPPs at that time because of IPR factors and instead offered to build to additional 300 MWe NPPs. However, again according to PAEC documents, China had offered as early as 2007, supply of 4 (four) 300 MWe and 1000 MWe NPPs to Pakistan, to be built in Karachi. Now that the first of the four Chinese designed and built 1000 MWe reactors at Fujian Fuqing is ready to be commissioned, it is, quite likely that the new agreement will be for, at least two if not four, 1000 MWe reactors to built in Karachi.

In the absence of a NSG exemption, Pakistan’s only source for nuclear commerce is China. Now a 1 GWe plant operating at 85% load factor will require about 200-250 MT of Natural Uranium (NU). And about 100,000 SWU for enrichment for a PWR. Pakistan is deficient in both natural uranium and enrichment capacity for fuelling a NPP. Hence China has not only to supply the NPPs but fuel as well. Already China had to supply about 10 refueling material to Pakistan for Chashma 1 and 2.

China has its own growing electrical power needs and has embarked on a major program of NPPs. And China, too, is deficient in indigenous uranium for all of its NPP needs. According to industry sources the gap between China’s production of natural uranium and needs was more than 2000 MT which was met by imports under safeguards and bilateral retransfer conditions. As its own NPP capacity grows it will need to import more natural uranium. And Pakistan’s needs for fueling the Chinese NPPs have to be met by China using its indigenous production of natural uranium since it cannot retransfer the imported uranium. In addition, since the Chinese NPPs supplied to Pakistan are all PWRs, China will also have to utilise its own enrichment capacity to accommodate Pakistan’s needs.

In short, China will face severe constraints in supplying Pakistan with both NPPs and fuel supply. It can help Pakistan with the NPP only if the latter can engage in global nuclear commerce to get its fuel for the lifecycle of the NPPs supplied by China.

Pakistan is constrained at this moment and hence it is imperative for China to get Pakistan admitted as a NSG member and will utilise the cover of the Indian application for NSG membership to counter objections later on.

It is to very much in Pakistan's and China's immediate and long term interests that India be admitted as a NSG member provided Pakistan is also admitted. Hence it will push for a criterion-based admission procedure.

India should, therefore, reconsider its membership on a criterion-based approach and insist that the membership be considered either on the basis of its fulfilling all the factors specified for membership in the Procedural Arrangement or as the US had proposed in NSG take a decision by consensus to admit "India based on India's support for the nuclear nonproliferation regime and its nonproliferation behavior."

In the absence of such an attempt, India should indicate its unwillingness to become NSG member. If the Indian application/membership is not considered at the NSG then the whole issue of criterion-based membership may also be shelved for the moment, much to the discomfiture of China and Pakistan. But Indian admission to NSG should not be used by other interested parties as an excuse to give a free pass to China and Pakistan to carry on their nuclear transfers and legitimize the illegitimate - under the NSG Guidelines - and uncontrolled trade in nuclear reactors and nuclear material being carried out by China.

This will, however, not disrupt in any manner the clandestine manner in which China has been supplying Pakistan with unsafeguarded natural uranium for its plutonium production reactors and Khushab and hence the accelerated production of nuclear explosive devices by Pakistan, as reported by independent observers in US and elsewhere. This is in conformity with the intelligence reports that suggest that with domestic uranium exploration plans running behind schedule for financial and economic reasons, Pakistan has been importing such unsafeguarded uranium to fuel its Khushab reactors and its nuclear weapon programme.