

# Club rules

## India and Pakistan press to join nuclear group

**With membership bids from India and Pakistan, the Nuclear Suppliers Group is faced with a key decision over its non-proliferation agenda. Mark Hibbs assesses the development of the two campaigns and the prospect of admission for New Delhi and Islamabad.**

### Key points

- India and Pakistan have stepped up their diplomatic efforts to gain admission to the Nuclear Suppliers Group (NSG), an elite trade regime aimed at preventing the spread of sensitive nuclear goods and technologies.
- India's bid to join the NSG was stymied by China during this year's annual plenary meeting, preventing the group's 48 participants from reaching a consensus decision about new members.
- India and Pakistan's bid for NSG membership is complicated by their non-participation in the Nuclear Non-Proliferation Treaty (NPT), as well as the strategic interests and geopolitical considerations of their respective allies.

India's bid to gain admission to the Nuclear Suppliers Group (NSG), the world's most important multilateral nuclear export control arrangement, remains in limbo despite New Delhi's efforts at the NSG's annual plenary meeting in June 2016. Held in Seoul, South Korea, the 48 participating governments of the NSG concluded their annual meeting without taking a decision on membership applications filed by India, as well as Pakistan.

The decision regarding Indian and Pakistani admission to the group is key to the future stability of the global non-proliferation regime. The NSG sets the rules for virtually all producers of nuclear materials and equipment, deciding which items are classified as

proliferation-sensitive and to which destinations nuclear-related goods may be transferred. Notably, decisions by the NSG are made by consensus, and each member state essentially has veto power.

As countries with significant civil nuclear energy programmes, both India and Pakistan are critical to global efforts to prevent the illicit transfer of nuclear goods, yet they have remained largely outside the world's nuclear trade governance system given their status as nuclear-armed states not party to the Nuclear Non-Proliferation Treaty (NPT).

The signal importance of a decision to admit India to the NSG was evident as early as 2005, when the United States and India announced their formation of a bilateral agreement for civil nuclear co-operation – a step that implied the need for the NSG to grant India an exception to its nuclear trade restrictions, which for three decades had prevented nuclear suppliers from exporting nuclear goods to India on the grounds of its NPT non-signatory status. In 2008, under strong pressure from the US, the NSG's members agreed by consensus to grant India that exception, thereby permitting New Delhi to participate in nuclear commerce with nuclear supplier states and their industries. Evidently, representatives from most NSG member states held the view that exempting India from the NSG's trade conditions would be qualitatively less significant than endowing India with NSG membership.

Full membership would permit India to shape the rules that govern global nuclear trade and could validate New Delhi's quest for equal status with the five permanent members of the United Nations Security

Council. Eager to keep pace with India, Pakistan is likewise seeking to enhance its access to nuclear trade and gain global recognition as a responsible nuclear state.

India's aspiration to join the NSG has been under active consideration by nuclear supplier states since 2010, when the US announced that it advocated India's admission to the group as part of an effort to gain Indian membership in other multilateral export control arrangements. These include the Australia Group, which is concerned with preventing the proliferation of chemical and biological weapons, the Wassenaar Arrangement, which establishes export controls for conventional arms and dual-use goods and technologies, and the Missile Technology Control Regime (MTCR), which India joined in June 2016 to curb the spread of unmanned nuclear delivery systems.

Given that all of the NSG's 48 member states are party to the NPT, the group is faced with the unprecedented task of weighing up the risks and benefits of including non-NPT states at the table. Whether and under what conditions India and Pakistan are eventually allowed to join the NSG will have a profound impact on how nuclear supplier states evaluate and manage nuclear proliferation risks.

### Structured dialogue

Following the 2010 US announcement of support for Indian NSG membership – which was joined by other supplier states including France, Russia, and the United Kingdom – the chairman of the NSG from 2014–2016, Rafael Mariano Grossi of Argentina, established what he called a “structured dialogue” to discuss internally the issues surrounding

possible membership for India. This process was still ongoing when, beginning in early 2016, both India and the US turned up the pressure on the group to decide the matter during the 2016 NSG annual plenary.

During the run-up to the meeting in Seoul, India convened bilateral meetings with NSG members that had not committed themselves to supporting Indian membership. In particular, Indian prime minister Narendra Modi personally raised India's NSG application with counterparts from China, Mexico, South Africa, and Switzerland – states that had expressed reservations in principle to India's lack of commitment to the NPT. Conversely, the US and its major Western allies – namely Australia, Canada, France, Germany, and the UK – firmly backed Indian membership without necessarily attaching specific and unique conditions that India would have to comply with in light of its non-NPT status.

During the course of Grossi's internal "structured dialogue" it became clear that the position taken by India's strategic rival China would be critical to the outcome of the decision – partly because key Western states within the NSG had lined up in India's favour, a development consistent with Washington's ongoing effort to intensify its strategic relationship with New Delhi.

However, during the weeks that preceded the Seoul plenary, China's role in the debate led to less cohesion among India's supporters. Beijing's expression of reservations about India's bid for NSG membership enabled a number of other countries within the group – perhaps as many as a quarter of its members – to raise critical questions, many of which were concerned about the impact on the NSG's procedures and guidelines should India be included as a member. For some of these states, the need to raise questions may have been driven by internal differences between national officials considering Indian NSG membership through the lens of their strategic interests and bilateral relations with New Delhi, and working-level officials focused on limiting the risk to effective global nuclear governance.

Since 2010, most of the discussion within the NSG concerning new members has been about India, rather than its regional rival Pakistan. In parallel to India's 2008 exception to NSG guidelines and 2010 US-backed bid for membership, Pakistan likewise expressed a desire to join the NSG; by the time of the 2016 Seoul plenary, both states had filed book-length documents testifying to their ef-

forts to prepare for membership in the group. However, when the Seoul plenary convened, many participants were not prepared to advocate simultaneous consideration of the two countries' applications.

### The NSG's mission

The NSG was established in 1975 as a reaction to India's 1974 test of a nuclear explosive device; plutonium for the device was generated using equipment supplied to India under peaceful-use agreements with Canada and the US. These two countries, joined by other nuclear suppliers, thereafter sought to restrict the transfer of nuclear items beyond the extent of controls called for under the NPT. During ensuing decades, more countries joined the ranks of nuclear technology-holders and the number of NSG members expanded nearly sevenfold, most recently with the addition of Mexico and Serbia in 2013.

The membership of the NSG has expanded to fulfill its primary mission: to encourage all states capable of exporting listed nuclear goods – especially sensitive items for uranium enrichment, reprocessing, and nuclear weapons production – to adhere to the group's guidelines. With that aim in mind, most NSG participants see the value of including nuclear-armed non-NPT states within its ranks. The risk of excluding these states was underscored in 2003, when it was revealed that Abdul Qadeer Khan, a leading scientist in Pakistan's nuclear weapons programme, had shared uranium enrichment technology and expertise with Iran, Libya, and North Korea.

Nevertheless, getting more countries to adhere to the NSG's guidelines does not necessarily mean that all nuclear suppliers will need to become NSG members. Indeed, as long as the NSG is governed by consensus, the continued expansion of its membership may eventually become unsustainable.

### Role of the NPT

The NPT, the international treaty aimed at preventing the spread of nuclear weapons, was opened for signature in 1968 and entered into force in 1970. In 1975, the NSG's seven founding members – Canada, West Germany, France, Japan, the Soviet Union, the UK, and the US – concerned by India's nuclear test the year before, convened out of their shared conviction that the restraints in the NPT would not suffice to prevent states, including NPT parties, from obtaining nuclear weapons. Although NPT membership has never been

a formal requirement for NSG participation, most of the original NSG participants believed that the NPT's norm-setting function 'that nuclear proliferation is a threat and must be prevented' was important for non-proliferation. Since the NSG's formation, the NPT has gained in status as a non-proliferation instrument, having been enhanced by the membership of Argentina, Brazil, China, France, South Africa, and Ukraine during the 1990s.

Beginning in 1993, the NSG agreed as a matter of policy that new nuclear supply arrangements between NSG participants and any recipient state must be conditional upon the recipient being party to the NPT or otherwise accepting International Atomic Energy Agency (IAEA) safeguards on all its nuclear activities. NSG participants have reiterated this policy during NPT review conferences held every five years.

Since 1997, the NSG has publicly declared that its members consider NPT participation a "factor" but not a requirement for group membership. Nonetheless, the fact that all member states are party to the NPT means that all have made specific legally binding commitments to restrain their nuclear behaviour, pledging to refrain from obtaining nuclear weapons or to engage in nuclear disarmament. Notably, in a 2011 revision of its guidelines governing uranium enrichment and plutonium separation, the NSG's members decided to condition transfers upon NPT membership in recipient states.

In their consideration of membership for non-NPT states, existing NSG members are also mindful of the potential impact on the wider non-proliferation regime, since the admission of non-NPT states would reverse the NSG's established policy linking NPT membership to trade privileges. Furthermore, should the NSG's links to the NPT weaken, many of the NPT's 185 non-nuclear weapon states may be less inclined to accept any additional nuclear restraints, especially if they are advocated by the US and other nuclear technology-endowed powers.

Another key consideration for the NSG is how to regard the nuclear arsenals of India and Pakistan should their membership of the group move forward. India refers to itself as a "nuclear weapons state", even in its own nuclear export control legislation. However, the NSG associates that term with the five "official" nuclear weapons states – China, France, Russia, the UK, and the US – that are explicitly permitted to possess nuclear

weapons under the NPT. It remains to be seen how the NSG would broach this issue with India and Pakistan, which are considered “unofficial” nuclear weapons states having developed their arsenal outside of the NPT.

### Conditional membership

In view of the risks associated with both including and excluding India and Pakistan, some NSG participants may favour admitting these states on the basis of specific criteria or benchmarks that approach norms expressed by the NPT. The applicants might, for example, be required to make legal commitments to NPT Articles I and VI concerning nuclear weapons and nuclear disarmament, sign the Comprehensive Nuclear Test Ban Treaty, and agree to participate in a multilateral negotiation for a treaty to ban the production of nuclear materials for weapons.

From the outset, as had been the case concerning India’s quest for an exception to NSG guidelines, India has sought to be admitted as a member without conditions attached. However, Pakistan has expressed its willingness to proceed on the basis of criteria that it would need to meet – perhaps in acknowledgement that New Delhi has been favoured by many nuclear suppliers and could potentially gain membership ahead of Islamabad.

For Indian admission, New Delhi could be asked to provide assurances that listed nuclear items would not be used for the production of nuclear arms. The NSG’s 2008 exception for India, for example, allows New Delhi to import listed nuclear goods under IAEA safeguards, thereby precluding their military use. As another option, NSG members could be barred from supplying India with sensitive nuclear items, or India could be compelled to more clearly separate its strategic nuclear activities from its civilian power programme. NSG participants would also need to consider whether they would share confidential nuclear trade information with India and other non-NPT states, including information concerning trade application denials, the export transactions that do not meet the criteria for approval that are not allowed to proceed.

Yet as of late-August 2016, India has not agreed to accept any criteria for NSG membership. Should India successfully gain admission to the group without agreeing to state-specific measures, it could potentially inspire other states – including non-NPT states – to likewise insist on unconditional admission to the group.

### Outlook

Having refrained from awarding membership to India and Pakistan during the Seoul plenary meeting, the NSG provided no obvious negotiating path to achieve a consensus decision on the issue. By the time the meeting was closed on 24 June, South Korea, which has assumed chairmanship of the group until the next plenary in 2017, informed NSG members that it, guided by the continued efforts of Grossi, would continue the “structured dialogue” process to reach a consensus decision. If sufficient progress were to be made ahead of the 2017 annual plenary session, the new chair of the NSG, Song Youngwan, may convene a special plenary to decide whether India will be granted NSG membership. New Delhi is keen to see this take place before the end of 2016.

India remains committed to pressing its case for membership. Since 2010, India has counted upon the US to deliver a consensus decision of the group in its favour, and many observers assume that this year Washington and New Delhi agreed to try to close the matter by the Seoul plenary, as in January 2017 US president Barack Obama will leave the White House to a successor who may not feel obligated to honour the commitments made concerning the US-India relationship.

Without careful negotiations, the outcome of the Seoul plenary might lead to a certain geopoliticisation of diplomacy concerning the membership of India and Pakistan, as officials from India and some US allies squarely blamed China for India’s failure to obtain membership. The Indian media has taken up the geopolitical angle, suggesting, for example, that how India positions itself between the US and China over territorial disputes in the South China Sea may be put to India’s advantage in seeking NSG membership. Furthermore, during the “structured dialogue”, China appeared to link its support for Indian membership to a hoped-for decision by the US to advocate China’s membership of the MTCR, a step the US was not inclined to take.

In the past, geopolitics played virtually no role in NSG membership decisions (China was admitted in 2005 with comparatively little concern) while throughout the Cold War, the superpowers co-operated in the NSG in the common purpose of preventing the spread of nuclear weapons. At present, however, the NSG might embark upon a different road. Western powers upgrading their relationships with India view Indian membership in multilateral trade arrangements as a

strategic matter, and Islamabad’s allies in the NSG are heeding its interest, concerned that, should India gain membership in the group first, it might indefinitely block Pakistan’s membership bid.

The impasse in Seoul might also diminish the likelihood that India will be offered ‘singular’ no-strings membership, since the communiqué released by the NSG at the plenary’s conclusion underscored the NPT as “the cornerstone of the international non-proliferation regime”. That statement might also strengthen the hand of negotiators who would welcome the NSG establishing de facto membership criteria for all non-NPT states. ■

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PA: 1679705

US president Barack Obama greets Indian prime minister Narendra Modi at the White House in Washington on 7 June 2016. Modi has raised India's membership of the Nuclear Suppliers Group with several countries with reservations, although it already has the support of the US.



PA: 1679706

Activists of Swadeshi Jagaran Manch, a right-wing organisation promoting indigenous products, demonstrate near the Chinese embassy in New Delhi, India, on 28 June 2016. China blocked India's entry into the Nuclear Suppliers Group at the group's plenary in Seoul, South Korea earlier in June.

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**Author**  
Mark Hibbs is a senior associate at the Carnegie Nuclear Policy Program.

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