



## The China-Pakistan Nuclear “Deal” Separating Fact From Fiction

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Ashley J. Tellis

### Summary

China’s commitment to provide Pakistan with two additional civilian nuclear reactors has created great unease in the international nonproliferation community. While some compare this assurance to the U.S.-India nuclear cooperation agreement, the differences between the two are significant.

- Unlike the U.S.-India civilian nuclear initiative, whose terms were publicly debated, the Sino-Pakistani agreement is a secret covenant, secretly concluded.
- China appears willing to dismiss its obligations to the Nuclear Suppliers Group (NSG)—which it joined in 2004—by privately claiming that the prospective sale is grandfathered under a Sino-Pakistani contract dating back to the 1980s.
- Whereas the United States respected the international nonproliferation regime by requesting a special NSG waiver to permit nuclear trade with India, China seeks to short-circuit the NSG rather than appeal to its judgment.

The United States must convey to China its strong concern about the planned reactor sale to Pakistan. The integrity of the global nonproliferation system requires an orderly and coordinated process for managing change—which the NSG provides—and China, as a member of that group, should be permitted to consummate its prospective deal with Pakistan only if it first secures an NSG exemption from the current guidelines.

By leading international opposition to the Sino-Pakistani deal in its current form—both bilaterally and multilaterally—Washington can prompt Beijing to reconsider its plans. It would also encourage other countries to insist that Beijing respect the integrity of the global nonproliferation system overseen by the NSG. China has shown its willingness in the past to listen. It is time for the United States to raise its voice again.

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The twentieth Plenary Meeting of the Nuclear Suppliers Group (NSG), which took place on June 24–25, 2010, in Christchurch, New Zealand, concluded uneventfully. That, however, was not a sign of success. Like Banquo's ghost, China's renewed nuclear cooperation with Pakistan hovered over the proceedings, despite its absence on the formal agenda. Since the news about China's February 2010 initiative to provide Pakistan with two additional civilian nuclear reactors had broken, a disconcerted nonproliferation community had waited expectantly for an official Chinese clarification of its plans.

The Christchurch meeting was the obvious forum for such a discussion because the NSG remains the key international body that oversees the rules relating to the export of nuclear technology and materials. Accordingly, several NSG members had formally requested China to explain its intentions at Christchurch. They received an evasive response. In a statement read out at the meeting, Beijing's representative assured the assembly in anodyne terms that all nuclear commerce between China and Pakistan would comply with the former's commitments to the Non-Proliferation Treaty (NPT) and the NSG, but refused to address further this specific transaction. Significantly, China declined to answer critical questions about whether there was in fact a binding contract in place for the new reactor exports, when precisely this agreement was finalized, and what exactly were its terms.

China's opaque nuclear trade with Pakistan has had a long and troubling history. While the international community has reluctantly come to terms with past predicaments, the prospect that such activities might continue into the future remains unsettling. For some, the idea of Pakistan, a weak and decaying state, expanding its civilian nuclear program even further creates acute unease. Islamabad's military nuclear program is already the fastest growing in the world.

But for most, the more fundamental issue pertains to Chinese behavior and, in particular, its commitment to uphold the NSG guideline that no nuclear exports would occur to any non–nuclear-weapon state that did not accept full-scope safeguards. Since Pakistan is, under the NPT, a non–nuclear-weapon state, and since it does not accept full-scope safeguards as a matter of national policy, the question of how China squares its intention to export two new nuclear reactors to Islamabad—Chashma-3 and Chashma-4—with its NSG obligations becomes a matter of understandable concern for the international community.

## U.S.-India Civil Nuclear Deal

For many observers, however, the challenge of managing this Chinese initiative has been complicated by the U.S. decision to renew civilian nuclear cooperation with India, which like Pakistan is also a non-nuclear-weapon state under the NPT and does not accept full-scope safeguards as a matter of national policy. The fact that the United States has treated India differently from the rest of the NPT outliers—creating a unique “carve out” that enables New Delhi to engage in peaceful nuclear cooperation internationally despite its refusal to sign the NPT—is often viewed as weakening Washington’s ability to oppose the current Chinese transgression. As one reporter summarized the situation, “China wants to sell two nuclear reactors to Pakistan. The Obama administration thinks that’s a bad idea—but how to oppose that plan while dodging charges of hypocrisy, given [that] the administration only last year sealed a U.S. deal to supply India with civilian nuclear equipment?”<sup>1</sup>

Others, such as Brad Glosserman, executive director of the Pacific Forum Center for Strategic and International Studies, have gone further, arguing that the U.S.-India deal has in fact opened the floodgates for exactly such transactions as are now proposed by China toward Pakistan: “We all knew at the time that an agreement such as the India-U.S. one would have consequences for the non-proliferation regime and that’s what you are seeing now.... The India-U.S. deal was a bad, troubling example to set, for proliferators, however justified the desire in Washington to improve ties with India.”<sup>2</sup> In other words, if the U.S.-India agreement had not been consummated, the currently proposed Chinese sale of new nuclear reactors to Pakistan would likely not have occurred.

These claims, however, are not persuasive.

Whatever one’s views of the U.S.-India civilian nuclear cooperation agreement, the accord reached between President George W. Bush and Prime Minister Manmohan Singh is fundamentally different from the proposed Chinese effort to export additional power reactors to Pakistan. *Pave* the recent claims of Maleeha Lodhi, the U.S.-Indian agreement is not “a fundamental violation of the [Nuclear Non-Proliferation] Treaty”<sup>3</sup> because nothing in the treaty forbids agreements for peaceful nuclear cooperation—to include the export of reactors, other nuclear technologies, and nuclear materials—with states that are not signatories to it. All that the NPT requires is that every nuclear transaction with any non-signatory state be solely for peaceful uses and that all transferred items be fully safeguarded by the International Atomic Energy Agency (IAEA). The U.S.-India civilian nuclear cooperation agreement meets both these conditions and, therefore, cannot be considered a violation of the NPT by any stretch of the imagination.<sup>4</sup>

The bilateral agreement between Washington and New Delhi, however, was clearly in conflict with the full-scope safeguards criterion encoded in the 1978 U.S. Nuclear Nonproliferation Act (NNPA) and adopted by the NSG at its Warsaw meeting in 1992 (which enjoined its members to refrain from any

significant nuclear exports to non–nuclear-weapon states that had not adopted comprehensive safeguards). Consequently, the Bush administration expended enormous political capital in the U.S. Congress to amend the relevant components of American law, primarily Section 123 *et seq* of the Atomic Energy Act, which previously had permitted nuclear cooperation agreements with non–nuclear-weapon states only after they had accepted full-scope safeguards. Thereafter, the administration, working in concert with the government of India, committed significant diplomatic resources to convince the NSG to accord India an exceptional waiver from the full-scope safeguards criterion that would have otherwise stymied international nuclear cooperation with New Delhi.

From the very beginning, President Bush always had the option of pursuing nuclear cooperation with India in the manner now pursued by China toward Pakistan. That is, the United States—after amending its own national laws—could have unilaterally begun nuclear trade with India, disregarding the sentiments of its NSG partners and abusing the normative character of the NSG’s guidelines. Because maintaining the integrity of the global nonproliferation regime, however, was always important to the United States—and was perhaps even more important because of the exceptional treatment contemplated for India—the Bush administration spent considerable energy from October 2005 until the final extraordinary plenary in September 2008—consulting with its NSG partners *during eight meetings over four years*, not to mention the bilateral discussions that occurred in national capitals—to finally secure the special waiver for India that exempted it from the constraining condition of full-scope safeguards.

The current Sino-Pakistani nuclear transaction could not be more different.

For starters, the interstate agreement governing the potential export of the two Chinese reactors to Pakistan is a secret covenant, secretly concluded. Unlike the U.S.-India nuclear initiative, whose terms were public and vociferously debated in both countries starting with the initial announcement in July 2005, the conditions regulating the proposed Chinese sale (and any potential future transfers) are unknown to the international community.

Furthermore, the Chinese have sought to advance this transaction with Pakistan by subterfuge. By insinuating privately, but without any accompanying formal declaration, that the prospective sale of two nuclear reactors to Pakistan is grandfathered, in Maleeha Lodhi’s masterfully equivocal formulation, “under the [Sino-Pakistani] agreement dating back to the 1980s that provided for an understanding in 2003 for further long-term collaboration,”<sup>5</sup> Beijing has sought to convey that all Chinese sales to Pakistan are *ipso facto* exempted from its obligation to uphold the NSG’s requirement of full-scope safeguards because China joined the NSG only in 2004, well after the latest “understanding” reached with Pakistan.

This minor detail, however, eluded Chinese diplomats when they provided the NSG with a rendition of their outstanding commitments upon joining the

organization. As Mark Hibbs has described it, “China then explained to the NSG that a longstanding framework agreement with Pakistan committed China to provide a second reactor, Chashma-2, more research reactors, plus supply of all the fuel in perpetuity for these units.”<sup>6</sup> Notice there is not a word about additional power reactors beyond the already contracted Chashma-2, which began construction in 2005, the year after Beijing joined the NSG.

Finally, and most conspicuously, unlike the U.S.-Indian civilian nuclear initiative, China has made no effort thus far—and is unlikely to make any in the future—to seek a specific NSG exemption for its nuclear trade with Pakistan.

The Bush administration campaigned for a waiver from the NSG’s full-scope condition for India on two defensible grounds: first, India’s nonproliferation record justified its progressive integration into the international nuclear regime and, second, its growing technological mastery over different nuclear fuel cycles made the international regime stronger through its inclusion rather than its continued exclusion. After long and arduous diplomatic efforts, these arguments finally carried the day—but not before the NSG wrested from New Delhi a strong reiteration of its disarmament obligations.

What is most pertinent, however, is that the United States made the investment over several years to persuade the NSG and, further, that the NSG’s members took their time to consider the American proposal in all its complexity. To be sure, many were torn by the nature of the U.S. initiative; some were frustrated by what was perceived as strong American pressure; others had to balance their long-standing commitment to nonproliferation with their strong ties to India and/or the United States; and all had to struggle to figure out how best to integrate India into the global nuclear regime. When the consensus finally came, it did only after all the competing interests were weighed and adjudicated in 44 national capitals—which is exactly what the process was meant to do.

China, in contrast, has chosen a different route: seeking to short-circuit the NSG rather than appeal to its judgment. Knowing full well that Pakistan’s poor nonproliferation record and its continuing reluctance to come clean on the activities of A. Q. Khan and his cohort will prevent the NSG from granting Pakistan any waiver from the full-scope safeguards requirement, Beijing appears committed to persisting with the course of action it has adopted thus far: namely, to attempt consummating various nuclear trades with Pakistan secretly if it believes it can get away with such dealings because of either diffidence or contrivance on the part of the international community.

The glaring differences between the U.S.-Indian agreement and the proposed Chinese-Pakistani transaction thus say more about, in Hibbs’ apt phrase, “China’s growing nuclear assertiveness”<sup>7</sup> than they do about any purported similarity between these two initiatives. Consequently, the United States can—and should—oppose China’s current effort to sell new reactors to Pakistan without fear of “charges of hypocrisy.” If duplicity is at issue on this question, it emanates only from Beijing and not Washington.

## An Opening for China?

But even if American nuclear cooperation with India is in fact fundamentally different in its structural characteristics from that between China and Pakistan, is there any truth to the charge that the former has engendered the latter? Many commentators in the United States seem to think so. Commenting on the Sino-Pakistani agreement, for example, Henry Sokolski, executive director of the Nonproliferation Policy Education Center in Washington, has argued, consistent with Brad Glosserman's remarks quoted earlier, that "two wrongs make a wrong, but it was to be expected once we made the case for an exemption [involving India]."<sup>8</sup>

Not so fast. In fact, the Chinese attempt to sell Pakistan additional nuclear reactors beyond the Chashma-1 plant agreed to in 1991 goes back to the first term of the George W. Bush administration—long before the U.S.-Indian civilian nuclear cooperation agreement was even contemplated. It is often forgotten that for over a decade now, Beijing has sought on various occasions to expand its civilian reactor sales to Pakistan. Sino-Pakistani discussions on this subject occurred even after China had joined the NSG in 2004. For most part, however, these efforts historically were stymied by Islamabad's lack of financial resources, although China's unwillingness to confront the international community through politically provocative transactions played some role as well.

In any event, whenever it appeared that a Chinese nuclear sale to Pakistan was in the offing, successive U.S. administrations reacted quite unfavorably. During the two terms of President George W. Bush, for example, the U.S. government démarched China formally or sharply queried it informally on several occasions, warning Beijing about American concerns regarding possible Pakistani diversion of Chinese-origin technology and materials to Islamabad's weapons programs while cautioning China not to violate standing NSG regulations on this issue. Similar démarches were issued in Islamabad, admonishing Pakistani policy makers about U.S. concerns regarding the potential circumvention of NSG guidelines.

Such complaints were leveled throughout the Bush years—*before, during, and after the civil nuclear cooperation initiative with India*. In every instance, the strong American remonstrations produced the desired effect: no Chinese reactor sale to Pakistan was consummated, even though it was obvious to U.S. policy makers that both Beijing and Islamabad were constantly testing the waters, probing the strength of American opposition.

The unvarying character of the conversations themselves gave the game away. Although intelligence alerts or news reports indicating a potential Chinese sale to Pakistan usually precipitated the démarches in both capitals, neither Chinese nor Pakistani officials would ever acknowledge the conclusion of any contract or confirm whether binding interstate agreements governing the contracts even existed to begin with. Rather, they would simply recite the facts about Pakistan's unsatisfied energy needs; assure the United States that any Sino-Pakistani nuclear

energy cooperation—should it occur—would always be under IAEA safeguards and hence supposedly consistent with NSG guidelines; and, in the last years of the Bush administration, clamor for parity of U.S. treatment between India and Pakistan.<sup>9</sup>

Whatever China is proposing to consummate with Pakistan today in regard to reactor and other nuclear sales, thus, has a long, repetitious, and even convoluted history that bears little *causal* connection to the U.S.-Indian civilian nuclear initiative. If nothing else, Lodhi's laconic explanation about Sino-Pakistani civil nuclear cooperation substantiates this conclusion fully.

While there is no doubt that Pakistan's appeals for equal treatment with India have grown in intensity since the conclusion of the U.S.-Indian nuclear accord, the historical record equally corroborates the fact that China's desire to press forward with renewed nuclear cooperation with Pakistan predates the landmark agreement between Washington and New Delhi. As Hibbs noted—accurately—in a recent radio interview,

the commercial contacts between China and Pakistan were very, very advanced indeed at the time that the United States and India made a separate nuclear deal and the Chinese were merely waiting for an opportunity to advance this project and they have that opportunity now because the U.S. has gone ahead with its project with India and the Nuclear Suppliers Group in 2008 has approved it. So China has had a few years to wait, they've waited and now the U.S.-India project is going ahead and China now sees this as their opportune moment.<sup>10</sup>

The U.S.-Indian nuclear accord, then, cannot be held responsible for precipitating Sino-Pakistani civilian nuclear commerce—or its latest iteration. What the U.S.-Indian civilian nuclear cooperation agreement possibly contributed is a change in the psycho-political environment. This change encouraged China to test the prospects for forcing further change in the global nonproliferation system by implementing its own version of “exceptionalism” for its preferred strategic partners—in the hope that other states who acquiesced to the U.S. initiative would feel obliged to extend comparable courtesies to China.

Even if that were true, it only implies that Beijing and Islamabad ought to be held *a fortiori* to the same standards of endorsement for such cooperation, namely, securing an NSG exemption by China on behalf of Pakistan. The reasons for insisting on such a process are simple: even if the problematic character of Pakistan's nonproliferation record is discounted, the integrity of the global nonproliferation system requires an orderly and coordinated process for managing change—which the NSG currently provides—and China, as a member of that group, should be permitted to consummate its prospective deal with Pakistan only if it can first secure an NSG exemption from the current guidelines. In other words, China should be permitted to preserve its standing within the NSG only to the degree that it complies with the organization's existing rules.

## U.S. Leadership Is Indispensable

Whether China chooses to respect the NSG's guidelines and follow the process adopted in the case of the U.S.-Indian nuclear accord, however, will depend greatly on the U.S. response to Beijing's prospective sales to Pakistan. Although it is tempting to believe that the United States has few options and that the Sino-Pakistani deal could go through because China would simply disregard the NSG given its strategic interests in Pakistan, the historical record suggests otherwise.

For all of China's supposed nonchalance, Beijing is in fact quite sensitive to both American and international pressure on issues regarding proliferation, given its own past history with Pakistan, Islamabad's nonproliferation record, and the discomfiture associated with visible but awkward and undeniable transactions. Determined U.S. opposition to China's planned sales to Pakistan would engender caution in Beijing and energize resistance from other NSG members, most of whom are already apprehensive about Beijing's efforts to circumvent the existing guidelines.

This is especially relevant because the dramatic expansion of China's civilian nuclear power program has already made Beijing more dependent than ever before on international cooperation for its success; China's reliance on imported fuel, new reactor technology, and alternatives to the uranium cycle, in fact make it all the more important for Beijing to stay in the good graces of key NSG member states. As Hibbs has concluded succinctly, "... countries like Australia, the United States, Canada, countries that are in a position to support China's nuclear energy development, these countries are not powerless and would be in the position to engage China to restrain its behavior."<sup>11</sup>

In the NSG, as in any other international organization, however, a demonstration of robust U.S. leadership is indispensable. Resolute opposition by Washington will mobilize the pervasive international discomfort that might otherwise lie recessed and, in the case of Sino-Pakistani nuclear cooperation particularly, would be the single most important factor that makes the difference to whether China's plans in current form are realized or frustrated.

Unfortunately, the Obama administration's early response on this issue was hesitant and fumbling. T. P. Sreenivasan, formerly India's ambassador to the IAEA, has written about a closed meeting in Washington of nonproliferation experts in early June where a senior White House official despairingly remarked, "India imitates China, Pakistan imitates India. What can we do to stop their nuclear activities?" Further noting that Washington "did not want to displease China or Pakistan at this juncture," the official argued that American priorities today apparently cannot stray from "the economy and the war on terror." Commenting acridly that such observations reflect the attitudes of "a weak state, not a superpower,"<sup>12</sup> Sreenivasan chastised both U.S. policy makers and his own government for not standing up to China for its disregard of NSG processes.



It is indeed regrettable that many in Washington today conclude that the American “need” for China and Pakistan at this juncture in history prevents the administration from issuing a more tough-minded riposte toward their transgressions. This conclusion is certainly confounding because the United States arguably does not rely on China and Pakistan any more today than it has since 2001 and, consequently, has no reason to be more forgiving of their challenges today.

In any case, the mark of superior American diplomacy has always been its ability to integrate cooperation and resistance—depending on the issues—vis-à-vis a given state. Accordingly, pressing Beijing and Islamabad is by no means doomed to failure, especially since Washington *has* managed to successfully navigate complex competing pressures involving both countries in disparate issue areas during the last several years and because, at the end of the day, the United States still wields far more power than either or both of these countries combined.

Fortunately, the Obama administration is becoming more resolute than it was initially, thanks partly to the fact that the nonproliferation community within the U.S. Department of State has succeeded in slowly forcing change on this issue. As has often been the case in the past, internal divisions within the State Department have been largely responsible for the hesitant position initially adopted by Washington.

Thankfully, it appears as if the United States is gradually recovering both its wits and its fortitude. The State Department’s spokesman, P. J. Crowley, for example, recently asserted publicly that the Sino-Pakistani plans regarding the Chashma-3 and -4 reactors “appear to extend beyond cooperation that was grandfathered when China was approved for membership in the Nuclear Suppliers Group,”<sup>13</sup> thus amplifying the position taken earlier by another State Department spokesman, Gordon Duguid, who had declared pointedly that the United States “expects Beijing to cooperate with Pakistan in ways consistent with Chinese nonproliferation obligations.”<sup>14</sup> The U.S. representative at the NSG meeting, Richard J. K. Stratford, also clearly reiterated this position at Christchurch.

## Conclusion

The last act of the Sino-Pakistani reactor sale has thus not yet played out. The United States, acting in partnership with other NSG members, can still thwart the current version of this initiative, but it will require concerted pressure on Beijing in both bilateral and multilateral fora. *Both* avenues are important—and are mutually reinforcing. The Obama administration has begun to challenge Chinese actions in the latter, but it has been far more tepid in the former.

The record of the last decade suggests that the United States has been successful in impeding problematic Chinese nuclear sales to Pakistan whenever it has remonstrated with Beijing at very high levels of government in both capitals, and through clear and tough messages conveyed also by its partners and allies bilaterally as well as multilaterally—while always holding in reserve the implicit threat to withhold those forms of cooperation desired by China.

There is no reason why President Obama cannot sustain this record of American achievement if he invests time and attention in this issue, given the emphasis he has placed on managing nuclear proliferation. As Henry Sokolski has put it succinctly, “it would be a shame if this administration, which prides itself on reducing nuclear threats, should itself wink at China trading in sensitive nuclear technology to Pakistan outside of the nuclear rules”<sup>15</sup> that bind the international community.

## Notes

<sup>1</sup> Howard LaFranchi, “US Objects to China-Pakistan Nuclear Deal. Hypocritical?” *Christian Science Monitor*, June 16, 2010.

<sup>2</sup> Cited in Sanjeev Miglani, “ANALYSIS—India’s Nuclear Ambition Runs Up Against China’s,” *Reuters*, July 5, 2010.

<sup>3</sup> Dr. Maleeha Lodhi, “Nuclear Doublespeak,” *News*, July 6, 2010.

<sup>4</sup> Similarly, the Chinese proposal to sell two additional civilian nuclear reactors to Pakistan does not run afoul of the NPT. No U.S. official has suggested that it does, nor does this Policy Outlook. What it does violate is the NSG’s guideline prohibiting the export of “trigger list” items to any state that does not accept full-scope safeguards, which is the principal issue of concern in this paper.

<sup>5</sup> Lodhi, “Nuclear Doublespeak.”

<sup>6</sup> Mark Hibbs, “Pakistan Deal Signals China’s Growing Nuclear Assertiveness,” *Nuclear Energy Brief*, Carnegie Endowment for International Peace, April 27, 2010.

<sup>7</sup> *Ibid.*

<sup>8</sup> Cited in LaFranchi, “US Objects to China-Pakistan Nuclear Deal. Hypocritical?”

<sup>9</sup> While there is a clear recognition that Pakistan is confronted by significant energy deficits, U.S. opposition to Chinese reactor sales is grounded fundamentally on concerns that circumventing the NSG’s guidelines would damage the international nonproliferation regime. The arguments in this paper also are not intended to suggest that Pakistan’s need for additional sources of energy is spurious.

<sup>10</sup> Mark Hibbs, “China Plans to Build Two Nuclear Reactors in Pakistan,” *Radio Australia*, June 22, 2010, available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=41045>.

<sup>11</sup> *Ibid.*

<sup>12</sup> T. P. Sreenivasan, “The Nuclear Suppliers Group's Shameful Silence,” *Wall Street Journal*, June 28, 2010.

<sup>13</sup> Cited in LaFranchi, “US Objects to China-Pakistan Nuclear Deal. Hypocritical?”

<sup>14</sup> *Ibid.*

<sup>15</sup> Cited in Ashish Kumar Sen, “China Nuclear Deal With Pakistan Vexes Obama Administration,” *Washington Times*, May 13, 2010.

**ASHLEY J. TELLIS** is a senior associate at the Carnegie Endowment for International Peace, specializing in international security, defense, and Asian strategic issues. While on assignment to the U.S. Department of State as senior adviser to the Undersecretary of State for Political Affairs, he was intimately involved in negotiating the civil nuclear agreement with India.

Previously he was commissioned into the Foreign Service and served as senior adviser to the ambassador at the U.S. Embassy in New Delhi. He also served on the National Security Council staff as special assistant to the President and senior director for Strategic Planning and Southwest Asia.

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