

Indo-US Relations: Perception and Reality

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Abstract

This paper attempts to provide an overview of significant recent developments in US policy towards South Asia and their implications for India. It examines the proposed cooperation between India and the US, focusing on advanced technology issues. It also places this issue in the context of US-Pakistan ties, as this provides a relevant referent for comparison. This paper concludes that while the US and India are formally expanding their strategic cooperation, the results on the ground are still not in step with the rhetoric. Therefore, considerable work still needs to be done before the much discussed strategic partnership can become a reality.

Introduction

The conventional wisdom on Indo-US relations states that in the last few years, the two sides have elevated their interaction to a deeper level. There are regular statements from both sides affirming this positive trend. Beyond such verbal gestures, tangible steps towards building up bilateral relations centre around the Next Steps in Strategic Partnership (NSSP) framework. These 'steps' include discussions on cooperation in defence technology, proposed sale of advanced fighter aircraft, and the supply of civilian nuclear material. Commentators on both sides have viewed such developments as evidence of a nascent strategic partnership between India and the US. It is important that such sentiments are examined in the light of events on the ground and assess whether India has actually benefited in real terms from its dialogue with the US, and more importantly how this compares with the latter's partnership with Pakistan. The reason for this comparison is because policymakers and commentators have frequently stated that Washington has very different policies towards India and Pakistan, and that ties with India are based on a long-term understanding of shared interests. It is time to see whether this deeper relationship has actually translated into concrete benefits for India.

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Recent Developments

The US State Department background briefing on March 25, 2005, on the Bush Administration's new strategy for South Asia evoked a widespread and varied response in South Asia while it went almost unnoticed in the US. The reaction in South Asia and in India in particular ranged from suspicion and skepticism to positive welcome bordering on euphoria. The March briefing was subsequent to the visit of the US Secretary of State Ms. Condoleezza Rice earlier that month to India. On the same day Rice had also given an extended interview to *The Washington Post* where India had featured among the various questions that were raised.

Some of the significant points made during the State Department briefing are as follows: Rice mentioned "broadening and deepening our relationship in energy cooperation." In a follow-up query during the *Post* interview, when asked about nuclear power plants, Ms. Rice answered "Well, we're one step from that certainly but (we are) looking at their energy needs and trying to understand how they can be met."¹ During the course of the background briefing on US-South Asia Relations, it was expressed that "the next steps and strategic partnership, though very important, wasn't broad enough to really encompass the kind of things we needed to do to take this relationship where it needed to go, and so the President and the Secretary developed the outline for a decisively broader strategic relationship. . . Its goal is to help India become a major world power in the 21st century. We understand fully the implications, including military implications, of that statement."²

The briefing went on to elaborate, "The strategic dialogue will include global issues, the kinds of issues you would discuss with a world power. Regional security issues, things like the tsunami situation or Nepal. And India's defense requirements, high-tech cooperation, expanding the current High Technology Cooperation Group and manufacturing licenses, even working towards US-India defense co-production. . . In parallel, there's an energy dialogue that would include civil nuclear and nuclear safety issues. Keep building the next steps in strategic partnership process that's already underway and establish a working group on space. India is very much a player in the issue of space launch vehicles, satellites and so on."³

The background briefing followed an announcement by the US administration that it had cleared the sale of F-16 aircraft to Pakistan, although details of the sale are yet to be announced. Some analysts have concluded that the US administration's remarks about India were made more to placate Indian sentiments than signifying any change in basic US policies towards New Delhi. Evidence of this lackadaisical

approach is that no concrete time frame or clear strategy to overcome obstacles towards implementation of the declared objectives, especially with regard to nuclear trade, was expressed at the March 25, 2005, briefing. Having said that, it is important to discuss some aspects which provide cause for consolation.

The F-16 sale to Pakistan had been expected for sometime and there was really no expectation that it would not come through. Therefore, it would have been enough perhaps to offer India a far wider range of munitions items, in addition to talks on higher level issues such as missile defence. However, the US government went beyond such declarations, and stated that it was interested in helping India become a major power, with full realisation of the military implications of that statement. It also talked of going beyond the NSSP, since that is not perceived as being broad enough.⁴ Further, the remarks about the *de facto* Indian and Pakistani nuclear weapon status, India's space capabilities, and civil nuclear cooperation between the two sides, are indicators that Washington does not just want to placate New Delhi but in fact desires substantial strategic interaction.

A relevant example would be the case of supply of civilian power reactors. In a March 2005 interview with *India Today*, a leading Indian newsmagazine, Rice, in spite of repeated and pointed questions about reactors, answered in general terms, saying, "Yes, well, we will certainly want to discuss the energy needs of India. I understand that this is a growing, in fact burgeoning economy and, like the United States, we are all concerned about how we will meet our energy supply over the next decades and do that in a way that is clean for the environment."⁵ She further said, "We can certainly discuss anything in this new relationship, and I think we will want to discuss this issue. There have been – and it will be no surprise to anyone – that there have been proliferation concerns. But this is something that I think we can certainly discuss." But crucially, in her interview with *The Washington Post* (March 25, 2005), however, Rice said that the supply of reactors was only a step away.

Previously, both sides had hailed the NSSP as a major step in bilateral relations. It was to "progress through a series of reciprocal steps that will build on each other."⁶ Although the NSSP has not been officially released, given the current domestic laws and international obligations in the US and India, high technology deals would have been a major step ahead in Indo-US high technology and security relations. The March background briefing stated that the "Administration made a judgment that the next steps and strategic partnership, though very important, wasn't broad enough to really encompass the kind of things we needed to do to take this relationship where it needed to go."⁷ Such a statement implies a much

stronger sentiment towards stronger efforts even when considering a positive interpretation of US laws and international obligations. As detailed studies have shown, obstacles in the way of India and US resuming civil nuclear commerce are formidable, but not entirely insurmountable if there is sufficient political will. To state that such commerce is only “a step” away implies a strong political commitment to reviewing past practices.

It is not surprising, therefore, that some analysts, taking the above factors into account have concluded that the March 25th briefing points to a major political shift in Washington’s approach towards resolving Indo-US differences and advancing to the full extent closer relations by including joint measures to combat terrorism and nuclear proliferation.⁸

Practical Difficulties

But before such expectations can be realised, several hurdles have to be dealt with. First, there are inherent, historically built-in prejudices and preferences among various political actors, especially in India. Such attitudes can be located in frameworks such as the Non Aligned Movement (NAM) as well as some formulations of the left parties. Second, the NSSP has to achieve its potential before moving forward. As already mentioned, progress in NSSP has been less than optimal. Third, regarding nuclear commerce, the Nuclear Suppliers Group (NSG) has to be convinced of the need to engage India in civilian nuclear commerce. As it happens, the immediate issue of fuel for Tarapur installation has to be resolved within the next 18 months. Fourth, progress in military supplies will be constrained by limits on Indian defence expenditure, and this could be a limiting factor in the final determination. Fifth, the US Congress, and in particular, the non-proliferation fundamentalists in the US will have to be convinced of the rationale for civilian nuclear commerce with India, even after NSG members have been convinced of such a need. And finally, for the US administration to convince its international partners and domestic constituents of the efficacy of such a policy, it would need to offer these critics some concessions by India as well. That would require a commitment by Delhi as well as certain unspecified actions on its part especially with respect to its strategic (nuclear and missile) programmes. That would indeed be a major exercise.

Therefore, while some experts have been generally positive about the March 25th briefing, others have concluded that the Bush Administration’s approach to South Asia does not signify any major shift in the US policies towards India. The viewpoints include the following issues:

- The March briefing was made with reference to the sale of F-16s to Pakistan, a sensitive issue as far as India is considered. It is merely a sop to placate India.
- While the sale of F-16 to Pakistan is ready for finalisation, there have been no steps outlined as to how the US hopes to achieve its objectives or goals with respect to its programmes with India.
- The NSSP has yet to take off in a positive manner.
- While the military sales to India would have to be financed with Indian resources, the sales to Pakistan have been underwritten with substantial military grants not to speak of the underwriting of the Pakistani defence budget by US military.
- The offers of US military supplies have not been supported by any assurance of continuity of supplies.

Therefore, taking into account these arguments, it is pertinent to enquire whether there have been any fresh developments at the ground level in the Indo-US relations especially with regard to high technology transfer issues, including civilian space and nuclear programmes. Furthermore, we also need to compare contrasting US policies towards India and Pakistan, which can give an indicator of how much progress has actually been made in Indo-US ties.

At the policy level a large number of bilateral meetings have taken place between the two governments along with several joint-working groups. Following the commitment by the leaders to qualitatively transform Indo-US relations through stimulation of bilateral high technology commerce, Delhi and Washington held a series of discussions leading to the November 2002 announcement of the formation of an India-US High Technology Cooperation Group (HTCG), comprising senior representatives of relevant departments of both countries. The deliberations of this group led to India and the US signing a Statement of Principles for High Technology Commerce in February 2003.

Following this, the two countries held a number of meetings both at the official level (involving the HTCG) and non-official levels hosting a number of public-private meetings with representatives of both the governments and industry to examine specific sectors. Such public-private meetings have included sessions on defence technology, information technology, data privacy and export controls, life sciences and nanotechnology.

Subsequently in January 2004 at their next meeting, Prime Minister Atal Bihari Vajpayee and President George W. Bush announced the NSSP. Committing their

countries to a strategic partnership, the two leaders agreed, “to expand cooperation in three specific areas: civilian nuclear activities, civilian space programmes, and high technology trade,” in addition to expanding their dialogue on missile defence.⁹

The NSSP was envisaged as a cooperative exercise, consistent with the two countries’ national laws and international obligations, which will “progress through a series of reciprocal steps that will build on each other. It will include expanded engagement on nuclear regulatory and safety issues and missile defence, ways to enhance cooperation in peaceful uses of space technology, and steps to create the appropriate environment for successful high technology commerce.”¹⁰

But beyond the statements, what has been the ground reality since October 2001 when nuclear related sanctions were lifted? In September 2004, Washington announced the first initial steps under Phase I of the NSSP. These measures were supposed to be conducive to the easing of US export licensing policies which would have fostered cooperation in commercial space programmes and permitted certain exports to power plants at safeguarded nuclear facilities. But, although Phase I of the NSSP was presented in some quarters as being a major step, in reality its scope was limited to de-licensing of low technology items for subsidiary units of the Indian Space Research Organisation (ISRO). This begs the question – why has actual cooperation not been in tune with the lofty sentiments expressed at highly publicised meetings between senior officials? There are two alternative explanations:

- The US government is not really sincere in its stated goal of radically transforming its relations with India or is unable to get the entrenched US bureaucracy to formulate action plans to translate this stated political objective into reality.
- Alternatively, the Indian government has been unable to resolve its own policies with respect to its relations with the US and because of this its own measures have fallen short of expectations, damaging its credibility.

There is sufficient evidence to support either of these two hypotheses. The next section analyses the US administration’s policies towards India, while also considering its relations with Islamabad at the same time. The subsequent section briefly takes a look at New Delhi’s response, while the final section offers some suggestions on how to improve the state of affairs.

US Administration Policies

The Bush Administration has stated that Washington’s new policy in South

Asia is to delink its relations with India from its relations with Pakistan – a suggestion often made by Indian commentators. But, in reality, Washington has gone out of its way to help Islamabad while dragging its feet when dealing with New Delhi. Two aspects of US policies need careful examination. First, the US interpretation of the requirements of its domestic laws and international obligations in respect of its actions towards India and Pakistan; and second, the massive financial resources – direct and indirect – it has been transferring to the Pakistan military.

US Domestic Laws and International Obligations

How has Washington interpreted its domestic laws in dealing with India and Pakistan? Even when the US administration lifted the 1998 tests-related sanctions imposed on India and Pakistan, the result, as compared to the pre-May 1998 position, was more in favour of Pakistan than India.

What has happened since then? A review of US policies reveals the following points:

- Pakistan still attracts sanctions under Section 508 of the Foreign Operations Appropriations Act, which bars assistance to any country whose duly elected head of government has been deposed by a military coup. Annual certificates waiving these sanctions – a requirement arising from various Congressional Acts – are being routinely issued annually on the ground that this would “facilitate the transition to democratic rule in Pakistan.”¹¹ This, in spite of the fact that President Pervez Musharraf has given no indication to forego either his military uniform or dilute his powers. This is not unlike the ritual certificate that used to be given by the US in the 1980s – also as a requirement arising from then existing Congressional Acts, such as the Pressler Amendment – that Pakistan did not possess a nuclear device.
- In addition, Washington has gone out of its way to protect Islamabad from various sanctions it has been accumulating since 2001 – almost as a collection of merit badges – as a consequence of Pakistan’s actions that have violated US laws. On March 14, 2003, the President issued a memorandum (Presidential Determination No. 2003-16) waiving the coup-related sanctions on Pakistan citing that it “is important to United States efforts to respond to, deter, or prevent acts of international terrorism”.¹² On March 17, 2003, the US Secretary of State transmitted to the US Congress a ‘Waiver Determination and Memorandum of Justification Regarding US assistance to Pakistan’ pursuant to Sec. 620H of the Foreign

Assistance Act (FAA).¹³ Sec. 620H of FAA requires the President to “withhold assistance under this Act to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government.” The President made the determination that “furnishing such assistance is important to the national interests of the United States.”

About a year later the President once again made a number of determinations with respect to Pakistan. On February 27, 2004, as a requirement for providing assistance to Pakistan under the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106), the President determined (Presidential Determination No. 2004-25) that “the Government of Pakistan is cooperating with the United States in the Global War on Terrorism.” Then on March 24, 2004, he made another determination (Presidential Determination No. 2004-26), once again waving coup related sanctions citing, “it is important to United States efforts to respond to, deter, or prevent acts of international terrorism” as the reason for the determination.

Then, like the previous year, the Secretary of State sent to the US Congress on April 5, 2004, a Determination and Memorandum of Justification pursuant to the Foreign Operations, Export Financing and Related Programs Act pursuant to Sec. 543 of the Act. Sec. 543, as does Sec. 620 H of the FAA prohibits assistance to “Foreign governments that export lethal military equipment to countries supporting international terrorism.” Once again the President made the determination that “furnishing such assistance is important to the national interests of the United States.” Although in this instance the country supplying such lethal military equipment to support terrorism was not specifically mentioned, as was done earlier, an analysis of the issue would suggest that the target country was once again Pakistan.

Thus in two successive years, even though Washington accepted that Pakistan was involved in providing lethal military assistance to countries involved in international terrorism, nevertheless, it certified that Pakistan was assisting the US in its global war against terrorism, because of which sanctions were waived.

- In early 2003 the US imposed sanctions on a North Korean company, Changgwang Sinyong Corporation, and Khan Research Laboratories of Pakistan for the transfer of missile components to the latter.¹⁴ However,

the US government determined that the sanctions on Khan Laboratories are not applicable to the Pakistani government.¹⁵ Furthermore, Washington stated that sanctions were applied only for the missile transfers and not for the suspected transfer of nuclear technology from Pakistan to North Korea.¹⁶ Once again in order to refrain from imposing the far stricter economic and military supply sanctions mandated by US laws, the administration chose to apply a far less strict legal instrument. The net result of this action was, however, to sanction North Korea for missile transfers to Pakistan and Pakistan for missile transfers to North Korea, which seems an incredulous proposition. Thus, over the last four years the US administration has consistently chosen either to obfuscate its own laws mandating sanctions against Pakistan or provided assistance to Pakistan citing national interest and security as the criteria for waiving these sanctions.

On the other hand, with respect to India, even though the sentiments and statements expressed may suggest a desire to proceed beyond the NSSP, the US has consistently refused to act even within the permissible limits of its domestic and international legal obligations. Thus, for example, while the US domestic laws and the NSG guidelines for supply of dual-use items allow such transfers to safeguarded facilities even with respect to items for the reactor facility, the US has consistently refused to supply even safety related items to the Tarapur Atomic Power Station (TAPS) even though India had voluntarily placed TAPS under IAEA safeguards after the expiry of the Indo-US agreement on TAPS.

Nor has the US relaxed the restrictive export control laws on dual use items to India. The ISRO continues to be either denied items of purely civilian application or is able to obtain them only after considerable difficulties. These are items which have no significance for India's strategic programmes. In any case the US has imposed on India a post shipment verification regime – to ensure that such items do not get diverted to prohibited end-uses – which is far stricter than a similar arrangement it has with China. All that has been done so far in the course of the past four years has been the relaxation of these laws to the extent of permitting licence-free exports of items of so common and low technology nature that they do not even find any separate mention in the US Commerce Control List (CCL).

The US government's selective interpretation of its domestic laws and international obligations, and its support for the Pakistan Army and President Musharraf has been far more extensive and opaque than is commonly realised even by Pakistani analysts especially in the light of the material and monetary support that Washington has been providing to Islamabad during the past four years.

Having examined Washington's disavowal of its own laws to aid Pakistan, it would be instructive to look at another element of US support to Pakistan – military aid. Military assistance to Pakistan comes in a number of forms. The first is the direct cash transfers made by the US military to Pakistan as logistics support payments for assistance offered by Pakistan to the US in its operations in Afghanistan. It amounts to US \$ 900 million - \$ 1 billion per annum.¹⁷ The second is the official Foreign Military Financing (FMF) grants made annually by the US to finance Pakistan's purchase of US military items. Currently it is \$ 300 million per annum.

The third element is the subsidised sale of US equipment to Pakistan as part of Excess Defence Articles (EDA) sales. So far the US has offered a variety of munitions items to Pakistan as part of EDA. The book value of these offers amounted to US\$ 391.36 million while the sale price to Pakistan was only \$ 51.00 million, i.e., at one-eighth the book price.

The final element is the purchases and grants made out of appropriations under different headings other than FMF. In one instance the US financed Pakistan's 2-year lease of 26 Bell helicopters valued at \$ 230 million out of funds appropriated under the Emergency Supplemental Appropriations Act for defence and the reconstruction of Iraq and Afghanistan. The actual transfers made from this and other appropriations are likely to far exceed the already announced five-year FMF funding of \$ 1.5 billion.

The value of total cash grants made by the US to Pakistan's military from January 2002 till date is in excess of US\$ 4 billion! Further, the total value of Foreign Military Sales (FMS) notifications so far sent to the US Congress already exceeds the total value of FMF grants Pakistan has been scheduled to receive till September 2009! It is most likely that the US will find additional resources to be able to finance Pakistan's purchase of F-16s. This may well exceed \$ 3 billion if Pakistan decides to order 75 or so F-16 Block C/D types.

The net impact of all these transfers has been that since January 2001, the US has been underwriting more than 30 per cent of Pakistan's total official defence expenditure and almost the entire capital expenditure – including purchases from both the US and non-US sources of Pakistan military.¹⁸

This section examined two levels of tacit and explicit US support to Pakistan. Washington's refusal to adequately apply its own laws apropos Pakistan, as well as its simultaneous financing of Pakistan's defence expenditure, does provide legitimate cause for concern to India. This is especially so in the light of declarations

such as those stating that the US would like to help India become a major power. Recent evidence may not necessarily suggest that Washington is actually trying to realise its declared objectives in its dealings with India.

Indian Government's Policies and Practices

It is also possible that in addition to US policies, the absence of a coherent Indian policy towards the US has resulted in the lack of any real progress. Almost nothing is known about what India expects from the US except, in broad terms, the relaxation of NSG guidelines and the relaxation of licensing norms for dual-use high technology items to India. The NSSP is not a public document and not much is available in the public domain about its contents. It is known, however, that the NSSP requires both governments to take steps in tandem to achieve progress in bilateral ties. One of the measures undertaken by the Government of India was the legislation and implementation of an efficient export control system analogous to the export control systems in place elsewhere. Yet, even after nearly 18-months since the NSSP was announced, India is yet to have a comprehensive export control system in place. The government has recently passed, 'The Weapons of Mass Destruction and Their Means of Delivery Systems (Prohibition of Unlawful Activities) Act 2005,'¹⁹ but its operative sections have yet to be translated in executive administrative procedures and rules. Since further progress in the NSSP is contingent upon India having an up-to-date export control system, lack of progress in the NSSP could as well be due to Indian sluggishness as much as US intentions.

Although public knowledge of details in this respect is scant or almost non-existent, the general impression has been that India has made few concrete doable demands on the US to show its good faith. For instance, while the demand for relaxation of NSG Guidelines for transfers to India of Trigger List items – reactors and nuclear fuel – should certainly form part of India's requirements, it is well known that this step requires substantial preparatory work to be able to muster support in the NSG, which the US does not appear to have embarked upon.

Meanwhile, there are a number of steps that the US can take without reference to the NSG. A relevant example would be the sale of dual-use items for the reactor section of TAPS. Both the US laws and the NSG rules allow for such transfers. Yet, it is not clear if the Indian government has made demands for such items from the US or even if the Department of Atomic Energy has any graded set of demands from the US other than reactors. The same attitude of indifference or absolute demands is the hallmark of other concerned departments.

Another issue is the lack of iron clad supply guarantees from the US on the sale of munitions items which then becomes a factor inhibiting Indian purchases of US equipment. Yet it is not realised that even today a number of major Indian defence purchases and procurements – both from domestic and non-US foreign countries – are critically dependent on US licenses without any guarantee that these licenses will be unconditionally enforced. For example, the supply of the Advanced Jet Trainer (AJT) is dependent on a licence granted by the US government in March 2002 to India for the supply of 66 ram turbine engines for the British supplied Hawk trainer aircraft. There is no guarantee that these will not be revoked as was done in the case of the Sea King helicopters in 1998.

The Light Combat Aircraft (LCA) is also dependent on US licenses given in 2004 for manufacture of flight control systems and the export of F04-GE-IN20 aircraft engines to power the aircraft. Once again there is no undertaking by the US that these licenses have been given unconditionally. The Main Battle Tank (MBT) is dependent on US licenses for manufacture of rate gyros in Sweden for export to, and end-use in India. Therefore, while it is eminently justifiable to ensure that India's defence procurement efforts will not be affected adversely, one requires a very strong case to demand assurances from the US. The US has not been willing to give such assurances even to its closest allies in NATO, which does not sound too promising for Delhi. This is especially so because many of the Indian procurement programmes are heavily dependent on US supplies without such assurances.

Dealing with such crucial details of technology transfer processes also requires political will as well as a clearly defined road-map. Political differences within India are a major hurdle to the implementation of such a clear agenda. A political consensus is thus required on what the expectations from the US-India political relationship are and how Delhi should respond to the existing international technology control regimes. Should it denounce and ignore them or cooperate with the key actors to make the regimes more responsive to the changing global environment? The concerned policymaking establishments in India have to undertake a cost-benefit analysis of its interactions with the US on high technology issues.

Areas for Immediate Consideration

There are a number of actions that India can ask the US to initiate without either contravening any of the latter's domestic laws or international obligations. Quite a few of them are of immediate relevance for the concerned Indian entities.

It is no secret that even if there is a political will to move ahead, the two bureaucracies – the State Department in the US and the scientific bureaucracy in India – are still far from enthusiastic about these developments. Unless the two democratic governments assert their political right to make and implement policies, and take strong measures to bring these two agencies in line with their objectives, not much is likely to happen in the near future.

Assuming that there is such a will, what are the immediate steps that can be taken by the two governments to put on track their stated intention to advance Indo-US bilateral relations?

- *Thorium*

The Radkowsky Thorium Fuel (RTF) is a novel once-through, thorium-based, seed-blanket fuel cycle concept that offers a number of advantages relative to the current uranium-based fuel for commercial light-water reactors. There is a joint US-Russia joint programme on this subject under the US-Russia Energy Working group. Use of thorium is central to the long-term nuclear energy programme in India. It should, therefore, be of interest to India to be part of this program especially as its participation in this would benefit others as well because of the strong R&D work that has already been done in India on thorium. NSG guidelines may not pose a problem since the Ben Gurion University in Israel is already part of this program and in so far as NSG rules and US domestic laws are concerned, India and Israel are at par with respect to nuclear transfers. If the US and Russia can accommodate Israel in the programme, there is no reason why India too cannot be a part of the programme. Therefore, if the Indian Department of Atomic Energy (DAE) is interested in the programme and expresses its willingness to the Government of India, the latter must push the US towards this end. It will be one way to test the sincerity of the US government on its stated goals. Incidentally nearly three years ago in June 2002, the participants of a Track II meeting – who included the late Raja Ramanna and the present National Security Advisor, MK Narayanan – had recommended that India and the US pursue “Exploration of use of thorium in advanced thorium cycles in collaboration with US and Russian experts.”²⁰

- *Dual-use Components*

The transfer of dual-use components and parts for use in the safeguarded TAPS 1 & 2, which had been originally supplied by the US under an Indo-US nuclear agreement. Such transfers are permitted under both US domestic laws and its international obligations. Here again if the DAE can identify specific

requirements then the Indian government must pursue this with Washington.

- *Nuclear Fuel*

The current stock of low enriched uranium for TAPS 1 & 2 will be exhausted by end 2006. It is critical that fresh supplies of fuel be made available to TAPS. The current NSG Guidelines do not permit transfers of such fuel to India. India and the US must begin discussing how this restriction can be either removed or at least relaxed, so that TAPS continue functioning.

- *Communications Satellite Technology (COMSAT) Regulations*

Some years ago the US had established relaxed regulations for the transfer of technology, components and systems for the fabrication and launch of communication satellites. This is currently restricted to NATO and Major Non-NATO Allies (MNNA). Inclusion of the Indian Space Research Organisation (ISRO) in the COMSAT regime will greatly facilitate ISRO's competitiveness in entering global market for such services. This action too may need more than an executive decision by the US President to amend the relevant ITAR (International Traffic in Arms Regulations). This should be made a point of discussion between the two governments. Incidentally Pakistan – which does not have any communication satellite fabrication experience or facility – is covered by COMSAT since Pakistan is a MNNA while India, which has a well established and reputed communication satellite fabrication as well as launch facilities and experience, is currently outside COMSAT.

- *Relaxation of US Department of Commerce Licensing Procedures*

NSSP Phase 1 made a very modest beginning by removing licensing requirements for items classified as EAR 99 in the US Commerce Control List (CCL). There is scope for vastly expanding the list of items in CCL, which can be removed from licensing requirements. The Indian government must actively pursue such a course of action. Again, such action would be fully within the US laws and the international obligations of the US.

- *Defence Cooperative R&D*

The 2001 US designation of India as a Friendly Foreign Country (FFC) had made possible the initiation of joint cooperative R&D projects between the US Department of Defense and the Indian DRDO (Defence Research and Development Organisation) in defence technologies. However, so far there has been no further action from either side to translate this possibility into concrete programme. DRDO must be encouraged to examine the issue of joint and collaborative R&D programme

and if there is a consensus, the two governments must actively encourage the respective entities to initiate them.

One area, which merits immediately attention, is counter terrorism technologies. The US has established a core interagency group, the Technical Support Working Group (TSWG) to coordinate the development of such technologies. The TSWG has concluded bilateral arrangements with some countries for this purpose. India must explore the possibilities of having a similar agreement with the TSWG.

- *Defence Supplies*

Even close NATO allies of the US had faced problems of licensing delays and roadblocks when purchasing US munitions items. In order to facilitate such transactions, the US Government had enacted a relaxed procedure called the Defence Trade Security Initiative (DTSI), specially for NATO allies. India must persuade the US to include India in the DTSI process. This will serve to increase confidence in India about the reliability of US supplies.

The above is only an indicative list of actions that India requires the US to take – all of which are in tune with domestic US laws. The US response will enable India to assess Washington’s sincerity and commitment to implement the stated goal of enhancing Indo-US relations to a higher and strategic plane.

All this would require India to initiate coordinated steps to translate policies into actions. So far there is no public evidence that it has engaged in such an exercise and carried out the appropriate inter/intra ministerial and departmental co-ordination. Unless it does so, even with the best of intentions on the part of US government, not much can or will be achieved.

In short, while the future is completely open to all developments, in the short and medium term, progress on achieving the full potential of the “new strategy for Asia” will be constrained by progress on the NSSP; Indian governmental preparedness for exploring all avenues; concessions/actions required from India; the ability to carry the political class and public opinion along in the endeavour; and doing adequate preparatory staff work.

Removal of US Sanctions: Reality and Illusions

Magic, it is said, is often done with mirrors and illusions. It has to do with the sleight of hand, twist of the wrist and the presence of a good-looking stage assistant. While during such performances, rabbits appear from hats and buildings disappear,

at the end of the show when the curtain descends, the buildings are still there and the rabbit is nowhere to be seen. Watching the ongoing spectacle of Indo-US bilateral talks, one gets the feeling of having been to a magic show.

While it would not be unreasonable to state that the general perception in India is that Indo-US relations are on the upswing and the future is promising, it can be reasonably argued that on the ground, when we consider the tangibles, Delhi's position is worse off today that it was pre-May 1998, while Pakistan is far better off.

Before May 1998, there were no country specific sanctions on India and the only major irritant on the bilateral canvas was the issue of transfer of dual-use technologies and munitions items. Such transfers were governed by the 1984 Indo-US MoU on Technology Transfer whose aim was to facilitate trade in advanced technologies between the two countries by limiting those cases that required separate case-by-case assurances. The MoU covered all items under the US Munitions List (USML) and all items in the Department of Commerce Commodity Control List (USCCL), which were controlled for National Security (NS) reasons by the US. In 1984 such items covered nearly three-fourths of the items on the USCCL. Even though the MoU functioned successfully in the initial years, by 1998 its effectiveness had been reduced by a series of administrative diktats by the US administration. A large number of items on the USCCL (controlled for NS reasons) were removed from that classification with the result that by 1998 the share of such items in the USCCL came down to less than 40 per cent. Nevertheless the situation was somewhat manageable. There were no Indian entries in the Entities List, and items not listed individually in the USCCL – the so-called EAR99 – did not require export licenses to any party in India.

The May 1998 sanctions radically altered the situation. A large number of Indian entities were placed on the Entity List. All items on the USML were denied to India. And even EAR99 items were subject to denials to entities in the Entity List. The removal of sanctions in October 2001, it was assumed, would at least restore the situation to pre-1998 levels. That is not the case. First, although the Entity list has been pruned, nevertheless a large number remain on the list. Export licenses to these entities would not be covered by the 1984 MOU and all exports to these entities would be treated on a case-by-case basis, unlike earlier periods. Second, the listed entities would now require licenses even for EAR99 items - which was not the case earlier. Third, the number of items controlled by the US for national security reasons and hence subject to the 1984 MOU has been reduced even further, thereby increasing the number of items, exports of which to India –

and not only to listed entities – would now require case by case assurances. Fourth, exports of items on the USML, the ban on which had been removed by the sanctions waiver, have been made more complex and time consuming. Earlier, the US exporter could act without any delay upon such licenses, once these were issued by the US government. Now the new regulations require that such licenses be referred to the US Congress for approval with a lock-in waiting period of 30 days. If disapproved by the Congress the licenses will be denied. This was not the case earlier.

For all these reasons, the process of obtaining export licenses by Indian entities for items on the USML and USCCL has become far more difficult and complex today than was the case pre-May 1998.

In contrast, Pakistan's position today is vastly superior to what it enjoyed pre-May 1998. Prior to its nuclear tests in May 1998, there were two country-specific sanctions relevant to Pakistan. The first was the Symington Amendment which blocked use of Foreign Assistance Act or Arms Export Control Act funds for economic assistance, military assistance or international military education and training, assistance for peacekeeping operations, military credits or guarantees, to any country, which receives from any other country, nuclear enrichment equipment without safeguards. The second was the Pressler Amendment sanctions, which prohibited military assistance and transfers of military equipment or technology unless the US President certifies that Pakistan does not possess a nuclear explosive device. In addition, quite unlike India none of whose actions merited any further sanctions, Pakistan went on to collect three more such sanctions. The first was the sanctions under Section 508 of Foreign Operations Appropriations Act barring assistance under that Act to any country whose duly elected head of government was deposed by military coup. The second was the sanctions under Section 620 (q) of the Foreign Assistance Act and Section 512 of the Foreign Operations Appropriations Act (Brooke Amendment) barring certain assistance for countries in default on US Government loans. The third was Missile Sanctions under Arms Export Control Act barring US Munitions List and dual-use export licenses and US contracts for two years for entities involved in transfer of Missile Technology Control Regime (MTCR) class missiles and technology. Two such sanctions were imposed on specific Pakistani entities in November 2000 and September 2001. The one in November 2000 was with respect to the Pakistan Ministry of Defence and its constituent units, namely the Pakistani armed forces. In addition to these were, of course, the nuclear test related May 1998 sanctions. However, now in the post-the sanctions waiver regimes, all these have been removed. As a result

the current position of Pakistan vis-à-vis its position pre-May 1998 is far better than India which is worse off today than it was pre-May 98.

Conclusion

This paper has attempted to contextualise and illuminate some of the illusions surrounding the recent progress in Indo-US relations, especially in the high technology sector. Without in anyway reinstating the so-called hyphen linking India and Pakistan, it has compared some of the relative benefits that Islamabad has received from Washington in the last four years. This comparison, combined with an analysis of actual US high technology assistance to India, suggests that the bonhomie surrounding Indo-US ties is not completely justified.

Appendix -A

US-Pakistan Military Defence Finance and Supply Relations

The following points are notes from a much broader and deeper study of Pakistan's defence related activities including defence expenditure, R&D, industry and imports.

Analysis suggests that the entire munitions purchases made by Pakistan out of its budgetary allocation for defence during the past three years from January 1, 2002 to December 31, 2004 has been financed entirely out of cash and other grants made available to Pakistan by the US.

- 1) The total official defence expenditure of Pakistan during this three year period was Rs. 526.95 billion. (The data is from the web site of the Pakistan Ministry of Finance, Fiscal Operations section; <http://www.finance.gov.pk/> It should also be mentioned that Pakistan's defence budget is announced in June every year, hence the financial year runs from July-June.)
- 2) According to the IISS publication "Military Balance" the armed forces of India and Pakistan are reported to be as follows:

Army	India: 1,100,000	Pakistan: 550,000
Navy	India: 53,000	Pakistan: 22,000
Air Force	India: 150,000	Pakistan: 40,000
- 3) During FY 2004-05, the pay and allowances of armed forces i.e. uniformed personnel in India was Army: Rs. 12607.52 crore, Navy: 816.53 crore and Air Force: 2001.00 crore for a total of Rs. 15425.05 crore i.e. Indian rupees (IR) 154.25 billion.

- 4) Assuming that the Pakistan armed forces pay structure is similar to that of India and that the relative force structure in terms of ranks is similar, the pay and allowances of Pakistan armed forces should be the equivalent of IR. 7176.3 crore or IR 71.76 billion.
- 5) Assuming an average exchange rate of IR 45/\$ and Pakistani rupee (PR) of Rs. 60/\$, the pay and allowances of Pakistani armed forces should be about Rs. 95.68 billion.
- 6) The Pakistani official defence budget for FY 2004-05 is Rs. 193.926 billion. Pay and allowances of only the uniformed armed forces would be therefore about 49.3 per cent of the official defence budget.
- 7) The BE for revenue expenditure on items other than pay and allowances for the India forces during 2004-05 was Rs. 21772.72 crore or IR 217.72 billion.
- 8) According to Military Balance, Pakistan's holding of major munitions items range from a third to a half of the Indian armed forces.
- 9) Therefore even under an assumption that revenue expenditure on items other than pay and allowances of the Pakistan armed forces is only a third of that of the India armed forces, such expenditure in case of Pakistan would be about IR. 72.6 billion or PR. 96.76 billion, which is 49.95 percent of 2004-05 budget.
- 10) We have not taken into account the pay and allowances of civilians and others.
- 11) The value of cash grants made by US to Pakistan as logistics support payments during this three year period was PR. 137.65 billion i.e. about 26.1 per cent of the defence expenditure during this period.
- 12) Pakistani official defence expenditure does not include purchases made out of grants by others.
- 13) The logistics support payments are grants, but are included in Pakistan Budget as revenues of the Ministry of Defence.
- 14) From above it would seem that Pakistani revenue expenditure would be the equivalent of IR. 144.36 billion During FY 2004-05 or equivalent PR. 192.48 billion!
- 15) Even if one assumes no exchange rate equivalency, i.e. the revenue expenditure is only PR 144.36 billion, that would come to about 74.4 percent of defence expenditure! IF we assume exchange rate equivalency,

revenue expenditure would be about 100 per cent of defence expenditure!

- 16) Logistics support payments constituted 26.1 per cent of defence expenditure during Jan.1, 2002-Dec.31, 2004.
- 17) It would, therefore, seem that not only is Pakistan's entire defence capital expenditure financed by US, it is even likely that part of the revenue expenditure too may have been financed out of US grants!
- 18) US military financing of Pakistan's military acquisitions in the past three years- which are not included in the defence budget- was PR. 22.03 billion as FMF (Foreign Military Financing) (US\$ 374.06 million) and PR. 13.6 billion under US emergency financing provisions. This PR 35.63 billion is in addition to the Rs. 137.65 billion grants as Logistics support payments. This amount i.e. PR 35.63 billion is not reflected in the Pakistani defence budget.
- 19) Pakistan's defence expenditure, taking into account the above mentioned amount, would, therefore be PR. 562.6 billion of which the US contribution is PR 173.28 billion i.e. about 30.8 percent of the total.
- 20) This analysis takes into account only the currently known sources of US grants made by the US to Pakistan for military purposes. It is, thus, a minimum level of support. The actual level of support may be even higher.

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¹⁷ Refer to Appendix A

¹⁸ Refer to Appendix A

¹⁹ Passed on May 13, 2005, the Act provides legislative basis to prohibit unlawful activities in relation to weapons of mass destruction and their means of delivery.

²⁰ Track II meeting NIAS-Asia Society, New York, June 2002.

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