

**THE STATECRAFT OF SANCTIONS IN  
AMERICAN FOREIGN POLICY:  
A CASE STUDY OF NUCLEAR INDIA AND PAKISTAN**

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**CERTIFICATE**

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*Dedicated to ...*

*Matha. Pitha. Guru ...*

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## PREFACE

Negative sanctions as a coercive instrument of foreign policy have been widely used in the twentieth century international relations, which is dominantly characterized by increasing interdependence particularly in terms of economy and to some extent in terms of technology as well. Military instruments are often thought to be only effective means for achieving ambitious foreign policy goals like taking or defending territory, altering a states regime or internal political structure. Since Second World War however, economic sanctions have been viewed as the liberal alternative to war. And, with the booming scientific revolution in the field of nuclear physics producing nuclear weapons, the Weapons of Mass Destruction (WMD), and with the threat of dimension of proliferation of nuclear technology to nuclear have not's, the technological sanction also came into force in the form of Missile Technology Control Regime (MTCR) since April 7, 1987. Generally sanctions have been imposed on target state or states either unilaterally or multilaterally through the medium of international organisations like, League of Nations, United Nations or with out this medium to achieve the desired goal set by the sanctioner. The foreign policy records are displaying the history of success and failures of sanctions. Since the very beginning of the use of sanctions as a statecraft to conduct foreign policy, there has been a robust debate among the scholars, academicians of international relations, economic studies and

policy makers, on the questions: (a) whether sanction is an effective instrument or ineffective, comparing the cost benefit analysis with other instruments of foreign policy viz - military intervention, propoganda and diplomacy ? (b) whether it is a stand alone instrument of foreign policy or supplementary instrument which could work only with other foreign policy tools ? (c) whether it is having sound moral value on humanitarian ground or not, considering the ill-effect of sanctions on civilians ? The answer for these questions has swung from optimism to pessimism via neutral value of sanctions.

In the case of sanctions as an instrument of foreign policy, the U.S. is the only country that has used it frequently through the medium of the U.N. or separately. The policy debate conducted in the weeks preceding the Gulf War raised again the age old question of whether or not economic sanctions can be an effective instrument of foreign policy. The debate underscored the fact that we do not yet have an adequate understanding of when (or even if) economic sanctions produce policy shifts in the target countries. This point is reinforced by the fact that similar debates regularly recur, whether over the imposition of sanctions against former Yugoslavia Republics or over the use of sanction in response to Chinese arms sales. There is a bubbling debate which still continues between eminent American economists HSE (Hufbauer, Schott and Elliott) and Robert A Pape (Assistant Professor of Government at Dartmouth College) on the effectiveness of sanction as an instrument of foreign policy. HSE in their study

'Economic Sanctions Reconsidered', which is considered as the most influential study ever held on the sub-domain of sanction as an instrument of foreign policy, recommend to the policy makers that sanctions can achieve ambitious U.S. foreign policy goals provided there was elimination of "the lack of political will on the part of key leaders around the world". And further Elliott, one in the HSE group of Economists, concludes "sanctions can be effective only if they are part of an overall coherent policy including skilled diplomacy and, where appropriate, credible threats of additional force if compliance is not forthcoming". But Pape in his study "Why Economic Sanctions Do Not Work", a response article to "Economic Sanctions Reconsidered", directly challenges the emerging optimism which he finds in HSE study, about the effectiveness of economic sanctions. Pape's article "casts doubt on the claim that economic sanctions can achieve major foreign policy goals. It demonstrates that the empirical basis on which advocates have promoted economic sanctions - the HSE data base - is fundamentally flawed, and that the deductive logic behind the theory does not consider the characteristics of modern nation - states that weaken the effectiveness of economic sanctions". However, the increasing pessimistic school of thought (Robert A. Pape, Knorr, C. Clifton Morgan, Valerie L. Scjwenach) which advocates that "sanctions usually do not work" subsided the optimistic school of thought (Hufbauer, Schott, Elliott, Baldwin, Elizabeth Rogers, Martin) which supposedly has weak advocacy on the effectiveness of sanctions.

Amidst the tug of war between optimistic school of thought and pessimistic school of thought the sanctions are fast becoming the policy tool of choice for the United States in the Post-Cold War world. This widespread use of sanctions constitutes one of the great paradoxes of contemporary American foreign policy. Since sanctions appear frequently to be the weapons of choice of foreign policy makers, it is essential that further research should be continued to work towards understanding whether sanctions contribute to achieve the foreign policy goals or serve only symbolic purposes and towards finding the niche that determines the success of a sanction.

The study of dynamics of sanctions has significantly emerged currently in the context of the U.S. sanctions, unilateral and automatic in nature, imposed on India and Pakistan in response to their series of nuclear implosion on 11, 13 and 28, 31 May 1998 respectively. The nature and purpose of the sanctions - the first sanction because of nuclear explosion -, the phenomenon that the sanction is imposed on two states at the same period which inflicts cost on American business with India and Pakistan and affects latter's economies and the clashing interest of the U.S. in India and Pakistan make the study more interesting and constitute complex situational background to this study: **The Statecraft of Sanctions In American Foreign Policy : A Case Study of Nuclear India and Pakistan.**

As this unit of sanction on India and Pakistan represents the behaviour paradigm of larger unit of the nature of sanctions in American foreign policy, the present study could contribute to the better understanding of the core issue on the

relevance of sanction as an instrument of foreign policy in promoting American foreign policy goals. The present study is examining two broad questions -

(I) Whether sanction as a stand-alone instrument of foreign policy contribute to the achievement of major American foreign policy goals or serve symbolic purposes ?

(II) And, if so, under what conditions ?

Besides there are specific questions which are being examined in depth.

(a) What factors led the U.S. to prefer immediately sanction as an instrument of foreign policy in the case of nuclear India and Pakistan ?

(b) How far the US has influenced decision making of India and Pakistan towards attaining its stated goals including the primary goal, making India and Pakistan to sign and ratify the CTBT, as the deadline (September 1999) is fast approaching?

(c) Does the partially and also unequally waived sanctions on India and Pakistan have any strategic value to achieve the non-proliferation goals of U.S. ? And if so what is the strategy ?

On the course of the present research following hypotheses also have been examined.

i) With the global environment based more on interdependence in terms of economy and technology under the current globalization phase, the sanctions could be effective on the countries imposed as well as adversely affect the imposer too.

- ii) Sanctions may not be effective in disputes especially that affect the target country's security.
- iii) In a single attempt, too many major goals may not be achieved by imposing sanction on a target country.

The current case study is narrative, analytical and comparative in nature and essentially examine the role of economic sanctions and the sanctions related to dual use technology and arms sales as a stand-alone instrument of foreign policy whereby to understand the relevance of sanction. Addressing the broader question on whether sanctions are an effective substitute for war or other instruments of foreign policy and studying the sanctions imposed on India and Pakistan before the May 1998 Nuclear Test, are however, beyond the purview of this study. However this study takes into account also on the U.S. decision that waived the sanction partially on India and Pakistan in November 8, 1998. This present study mainly carries out the research on the developments related to foreign policy issues occurred between the US, India and Pakistan during the period from May 1998 to June 1999. This study attempts to find out the state of trend only, in achieving the stated US goals, as the diplomatic process between the three parties is unfinished at this stage.

This study is pursued under three phases, "Background" for the study, "Sanction in Action", and "Analysis", constituting three chapters and conclusion to the study.

The first phase "Background" that includes Chapter I - Theory of Sanctions and its Relevance in American Foreign Policy: An Overview - does discuss the theoretical background: the history of sanction in general, conceptualisation of sanction, modus operandi of sanctions tool and the methodological question pertaining to defining the success of sanction's tool. The later part of this chapter sketches the generic knowledge that presents the account of past experience of sanctions in American foreign policy in general and particular to India and Pakistan before May 1998 nuclear tests. And it also sketches the legal basis for the US sanctions.

The second phase "Sanction in Action" includes Chapter II and Chapter III. The first part of chapter II "The Imposition of Sanctions and the Impact of Sanctions", addresses the first specific research question related to the factors that led the US to prefer immediately sanctions tool. Estimating the impact or cost of the sanctions and giving the account of indirect impact of sanctions on India, Pakistan and the US as well, the second part of this chapter attempts to test the first hypothesis that assumes relationship between the global interdependence and effectiveness of sanctions.

The first part of the third Chapter "Nuclear Diplomacy of Sanctions: Outcome", deals with the second specific research question related to the level of US influence in the decision making of India and Pakistan towards sanctions objectives. The later part of this chapter addresses the strategic value in partial and unequal lifting of sanctions that constitutes the thrust of the final specific research

question. On the course of the nuclear diplomacy of sanctions that accounts the periodic diplomatic developments between the US, India and Pakistan, this chapter analysing the diplomatic developments, attempts to test the second hypothesis that draws relationship between two variables, security of the target country and effectiveness of the sanctions. The third hypothesis is upheld that multiple objectives can not be achieved at one time, purely on sanctions. However, this hypothesis has constrained, because success and failure of the sanctions can not be effectively concluded as the diplomacy of sanctions still continues at the time of submission of the present dissertation. The last Chapter contains some concluding observations and analysis of the core issue related to the relevance of instrument of sanctions in promoting American foreign policy interests and elucidates the reason for the obtained conclusion of this study.

## **CHAPTER I**

# **THEORY OF SANCTION AND ITS RELEVANCE IN AMERICAN FOREIGN POLICY: AN OVERVIEW**

## CHAPTER I

### THEORY OF SANCTIONS AND IT'S RELEVANCE IN AMERICAN FOREIGN POLICY: AN OVERVIEW

#### A Brief History of Sanction

The phrasal expression "Diplomacy of Negative Sanction" might have been new to the international politics of 20th century but not the idea which infact traces back to the apolitical society in the form of value deprivation in terms of isolation, cutting off monetary aid, property and denying knowledge (which could be attributed to the parallelism of modern concept of technological sanction) of a non complaint individual or a group in response to the non-compliance of accepted social norms. As 20th century international relations witnessed the increasing arrogance and non-compliance of some states, both the economic sanction and technological sanction got in to the course of practice one by one.

The first World War concluded with the treaty of versailles in 1919, which also included creation of the League of Nations based on the mutual co-operation of member states to provide collective security and prevent war. "Article 16 of the covenant authorised the member states to impose economic, financial and political sanction against any state, which would violate its obligations"<sup>1</sup> and disturb peace and security. In the inter war period the sanction was first given formal expression

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1 Lutfullah Mangi, "Sanctions : An Instrument of U.S. Foreign Policy". *Stragic Digest* (New Delhi), July 1998, p.1120.

during the Italian invasion of Ethiopia in 1935, when the economic and financial sanctions were imposed on Mussolini's Italy by the League but the sanctions failed to prove much effect because of the growing military might of the Hitler and the unwillingness of the France and Great Britain to press for strict and comprehensive sanctions.<sup>2</sup> In 1945 the United Nations, a more comprehensive body, replaced the League of Nations. "Chapter Seven of the U.N. charter specifies the legal basis for sanctions to be imposed on violaters to avoid the 'use of force'. Article 39 authorizes the security council to "determine the existence of any threat to the (world) peace, breach of peace, or act of agression" for the maintenance of international peace and security to "avoid the use of force". In addition Article 41 of the charter reads: "The security council may decide what measures not involving the use of armed force are to be employed to give effects to its decision, and may call upon the members of the United Nations to apply such measures. These may include complete or partial interruptions of economic relations and of air, rail, sea, postal, telegraphic, radio and other means of communication and the severence of diplomatic relations"<sup>3</sup>.

It was not originally envisaged that military and economic measures of enforcement would be used separately as an alternative or substitute to each other.

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2 Ibid.

3 Ibid.

"In the first British Foreign Office (Phillimore) draft, sanctions were listed as military, naval, financial and economic; the economic weapons was considered simply as one of the incidental operation of war (supplementary operation of military war)... But General Smutt's Pamphlet, *The League of Nations: a practical suggestions*, gave a prominent role to the economic boycott, and this fitted in well with president Wilson's idea, which had also been propounded by the American League to enforce peace and other groups sponsoring peace plans, that economic pressure could be substituted for military force as a means of maintaining peace"<sup>4</sup>. It is note worthy that in the begining itself sanction was considered as a substitute but not as a supplementary instrument of war. Economic sanction was the great discovery and the most precious possession of the League. "Coercieve diplomacy (of sanction) does indeed offer an alternative to reliance on military acton. It seeks to persuade an opponent to cease his agression rather than bludgeon him in to stopping"<sup>5</sup>.

### **Classification of Sanction**

When we discuss the theory of sanction it does not necessarily, most often mean positive sanction which comes in to lay man's perception, but negative

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4 M.P. Doxey. *"Economic Sanctions"*. Ontario, 1971. p.5-6.

5 Alexander L. George. *"Forceful Persuasion: Coercive Diplomacy as an Alternative to War"* (Washington, D.C., United States Institute of Peace Press), 1991. p.5.

sanction of foreign policy. David Baldwin writes "In discussing the role of sanctions.... the pens often slip toward negative sanctions and almost never slip toward positive sanctions".<sup>6</sup> Negative sanctions can be defined as actual or threatened punishment to B by A. Positive sanctions can be defined as actual or promised rewards to B by A. And apart from these two broad categories, as a matter of fact further more classification of sanction can be made in the following dimension.

- (i) Sanctions aimed at individuals in a receiving nation or collective (hitting the nation as a whole).
- (ii) Internal or external sanction. (iii) Unilateral, multilateral or universal sanction.
- (iv) General or selective sanction (involving all possible measures or only some special measures). (v) Total or partial sanction (involving all or only some measures of a special kind). (vi) Types of sanctions (types of values of which the receiving nation is deprived): (a) diplomatic sanctions (b) communication sanction (c) economic sanctions (d) technological sanctions (e) military sanction.<sup>7</sup>

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6 David A. Baldwin. "The Power of Positive Sanctions" *World Politics*, Baltimore, Vol.24, No.1, October 1971, p.22.

7 John Galtung. "On the effects of International Economic Sanctions" Miroslav Nincic and Peter Wallensteen, ed., *Dilemmas of Economic Sanctions : Sanctions in World Politics* (New York, 1983), pp.20-21.

## CONCEPTUALIZATION OF SANCTION AND ITS SUCCESS

Conceptualization of the term "Sanction" and its various type viz - "Economic Sanction, Technological Sanction and Military Sanction" has started inviting a serious and constructive debate in a sure American way among the scholars of "Sanction" and particularly between the two famous economists Robert A. Pape and David A. Baldwin. A clear definition of the term "Sanction" and a clear definition of success of the sanction is a most important prerequisite to measure the range of success of the particular statecraft of sanction in achieving foreign policy goals. Misconception of the term or wrong definition of the term (that may be narrowly defined or unnecessarily broadly defined) and ill-standard of measuring the success will cause serious flaw/damage in the course of drawing conclusion which allegedly occurred in both HSE's findings and Robert A. Pape's as well.

The issues to be addressed in this regard;

- i) Defining of the concept "sanction".
- ii) What is the term for "Sanction" in terms of economy? Is it 'Economic Warfare' or 'Trade War' or 'Economic Sanction'?
- iii) What should be the criteria of success of a sanction?

### Definition of Sanctions

According to the Oxford Advanced Learners Dictionary Sanction refers to "measure taken to force a country to obey international law" and "action taken by

a country to penalize and coerce a country or organisation that is considered to have violated a law or code of practice or basic human rights". Here the 'measure' or 'action' may be of any sort like economic, military, technological agricultural etc. in order to attain the purpose or goal of both the punishing and coercing the target country to comply with otherwise it may not. But Webster's dictionary defines the term as "Coercive measures applied to á nation taking a course of action disapproved by others" or "motive for obedience to any moral or religious law". Here the goal or purpose of the sanction is only one - coercion - not punishment also.

In 1938 the British Royal Institute of International Affairs (RIIA) defined sanction as an "action taken by the members of international community, against an infringement, actual or threatened of the law"<sup>8</sup>. This definition does not at all offer the purpose of the sanction - whether to punish or to coerce.

Professor Johan Galtung at the Institut Universitaire d'Etudes du Developement, Geneve, defines sanction "as actions initiated by one or more international actors (the "senders") against one or more others (the "receivers") with either or both of two purposes: to punish the receivers by depriving them of some value and/or to make the receivers comply with certain norms the senders deem

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8 Lutfullah Mangi, "Sanctions : An Instrument of U.S. Foreign Policy" *Strategic Digest*, July 1998, p.1119.

important".<sup>9</sup> Here the term sanction is defined with the either or both of two purposes: to punish or coerce.

Coercion may be, done through the means of punishment or threatening of punishment. But that does not mean that there is no need to mention "punishment" separately in the objective of sanctions definition. More over some times in some cases like trade disputes, the punishment (through inflicting cost on target by economic means) it self and not necessarily the policy change of the target is considered as the goal of sanction. Therefore Johan Galtung's definition of sanction is more definite in terms of flexibility of the purpose of the sanction.

The second issue is over the question of what is the term for sanction in terms of economy?

Robert A. Pape claims economic pressures to be of three category - economic sanctions, trade wars and economic warfare - and distinguishes them.

"Economic sanction seeks to lower the aggregate economic welfare of a target state by reducing international trade in order to coerce the target government to change its political behaviour. A trade war is when a state threatens to inflict economic harm or actually inflicts it in order to persuade the target state to agree to terms of trade more favourable to the coercing state. And economic warfare seeks to weaken an adversary's aggregate economic potential in order to weaken its

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9 John Galtung. "On the Effects of International Economic Sanctions" in Miroslav Nincic and Peter Wallensteen, ed., *Dilemmas of Economic Sanctions : Sanction in World Politics* (New York, 1983), p.19.

military capabilities, either in a peace time arms race or in an on going war"<sup>10</sup>

And Pape puts forth two reasons also for his claims, that economic pressures to be of three category. "First, the determinants of success for different categories of goals are not likely to be the same". (Let it not to be the same. What's wrong? Any way the success is going to be measured according to the determinants. If the determinants or purpose of the 'economic pressure' are achieved that case is considered as successful). And he further adds "standard of success that lumps them all together, risks losing information essential to building such theories". Second, beyond a certain point, excessively loose operationalization of dependent variables not only hinders theory building but departs from science altogether"<sup>11</sup>

Baldwin's counter view of Pape is very apt one which was also again challenged by Pape and later ended his challenge by posing a question - "whether we should distinguish among different uses of international economic pressure, or whether we should blur them all together?"<sup>12</sup> Baldwin writes "From this (Pape's) perspective economic sanctions, trade wars and economic warfare are not alternative policy options to be considered with respect to a particular set of foreign policy

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10 Robert A. Pape, "Why Economic Sanctions Do Not Work", *International Security*, Cambridge, Vol.22, No.2, Fall 1997, pp.93-94.

11 Ibid., p.95.

12 David A. Baldwin and Robert A. Pape, "Evaluating Economic Sanctions", *International Security*, Vol.23, No.2, Fall 1998, p.196.

goals. Each is defined in terms of a different set of goals. Definitional ties between particular policy instruments and particular goals do not facilitate the comparative evaluation of the utility of policy instruments with respect to a given set of goals ... Noting that some scholars use the term "economic sanctions" broadly enough to include pursuit of such allegedly "non-political" goals as changing the international economic policies of other states, Pape asserts that such usage is "not the common practice" because it would be "conceptually unwieldy" and confusing to policy makers. The term "economic sanctions", however, is used so loosely that there are many common practices. One of these common practices is to use the term to refer to the use of economic instruments to pursue a wide variety of foreign policy goals, including changing the foreign economic policies of other states... I have noted that one of the common meanings of "economic sanctions" corresponds with the concept of economic statecraft and have sometimes used the terms interchangeably"<sup>13</sup>. And further Baldwin writes "Although I continue to prefer the concept of economic statecraft, there are several reasons for preferring a broad concept of economic sanctions defined in terms of means rather than ends..."<sup>14</sup>

Beyond this subject related logic, the linguistic logic also finds, adding one prefix or adjective of the means of sanction, is appropriate. For example, if the

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13 Ibid., p.190.

14 Ibid., p.191.

sanction is through the means of economy then that is called "Economic Sanction". If it is in terms of technology or military that could be called "Technological Sanction" or "Military Sanction".

The meaning of the economic sanction, technological sanction and military sanction inevitably needs to be explained here. The economic sanctions are in symptoms of; (i) internal destruction (economic sabotage, strikes) (ii) rupture of trade relation (economic boycott) (b) hitting imports from receiving nation (export boycott). Economic boycott can comprise goods, capital and services. If passage of goods, capital, and or services to or from the receiving country is reported, the boycott is supervised; if in addition - passage is impeded, the boycott may be referred to as a blockade.<sup>15</sup>

Technological sanction is denying technological know-how to the target state most often in the field of nuclear physics. Military Sanctions refers to denial of military training, arms sale, financial aid directed to the military purposes.

As it has been mentioned already, on what basis the degree success of a sanction should be measured, also gains pivotal importance in understanding the relevance of sanctions in foreign policy achievement. Generally to measure the success range, it should meet the following criteria which are also reflected by

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15 John Galtung. On the Effects of International Economic Sanctions" in Miroslav Nincic and Peter Wallensteen, ed.. *Dilemmas of Economic Sanctions: Sanction in World Politics* (New York. 1983). p.21.

Pape's standard of success.<sup>16</sup>

- i) The purposes (goals) of that particular sanction should be achieved,
- ii) Negative effect as a counter product should not be met in **disproportion** to positive effect to the sanctioner.
- iii) There should not be seen any other factor or force that might have contributed to the fulfillment of the purposes of sanction. In Pape's words "no more - credible explanation should exist for the target's change of behaviour", and
- iv) Sanctions should have been applied before the target state changed its behaviour.

Sanctions of any type - either economic or technological or political or military - are employed for a wide range of purposes which may be in order to discourage the proliferation of weapons of mass destruction and ballistic missiles, promote human rights, and support for terrorism, thwart drug trafficking, discourage armed aggression, protect the environment, and replace governments. In any of these areas, the tactical purpose of a given sanction can be to deter, coerce, signal, and/or punish.

### **Modus Operandi of 67XSanction**

".....Coercive diplomacy emphasizes the use of threats to punish the

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16 Robert A. Pape. "Why Economic Sanctions Do Not Work". *International Security*. Vol.22. No.2. Fall 1997. p.97.

adversary if he does not comply with what is demanded of him.... In employing coercive diplomacy, which may already include non-military sanctions, one gives the adversary an opportunity to stop or back off before one resorts to military operations. It should be noticed that either of two demands can be made on the adversary. He may be asked merely to stop what he is doing: or he may be asked to undo what he has done that is, to reverse what he has managed to accomplish"<sup>17</sup>

The very basic factor here in the functional process of sanction is vulnerability, internal and external, in nature of the target state. The key to the understanding of vulnerability seems to be concentration: the more a country's economy and military depends on one product and the more its exports consist of one product and the more its exports and imports are concentrated on one trade partners the more vulnerable is the country. This concept of vulnerability tempts to hypothesize that success of a sanction may be entirely in the hands of target state's choice not with the hands of senders. The theory is simple. The input-output matrix of the economy of the receiving nation is inspected. The impact of partial or total boycott of selected imports or exports is calculated. As a matter of rational politics, maximum effect with minimum boycott is sought.

If the goal is to damage the economics system of the target state without similarly damaging the sending nation, this can obviously attained if a number of

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17 Alexander L. George, *Forceful Persuasion: Coercive Diplomacy as an Alternative to War* (Washington, D.C., 1991), p.6.

conditions that we can refer to as "the ideal case for a boycott" are fulfilled.

- i) that imports have a very high loading on important sectors of the economy of receiving nation;
- ii) that there is no internal substitute for the imports.
- iii) that a high loading of the important imports comes from the sending nation(s)
- iv) that there is no external substitute for these imports, so that the receiving nation can not threaten to change trade partners
- v) that the imports make up a very small part of the exports of the sending nation(s)/ and/or that the products can be exported to other nations;
- vi) export of the target state should be mainly to the sanctioner and target state should have no other nation to export.
- vii) that these exports from the receiving nation can easily be obtained elsewhere by the sending nation(s) so that the sending nation(s) are not hurt economically and can threaten to change trade-partnets, or that the exports can not be obtained else where by the sending nation(s) so that the sending nation(s) can demonstrate that they would rather suffer deprivation than touch products from the receiving nation; and
- viii) that the trade relation are easily supervised and even controlled.<sup>18</sup>

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18 John Galtung. "On the Effects of International Economic Sanctions" in Miroslav Nincic and Peter Wallensteen, ed., *Dilemmas of Economic Sanctions : Sanction in World Politics* (New York, 1983). p.22.

But ideal conditions could only be functional when the actors - sending nation and the receiving nation as well as other third party - act or behave in compliance with general international norms. If target state indulge in smuggling essential commodities which was targetted by sanctioner, sanction can not be successful. The sanctioner also should truly exercise the sanction not for symbolic purposes. The third party also should not co-operate with the target state in smuggling. In otherwords the third party should atleast co-operate if not support the sanctioner.

In the theory of sanction, target state's defensive strategies that shield the vulnerability also assume importance. The target state is left with only three counter strategies.

- i) to train itself in *sacrifice* by doing without certain commodities, and preferably even liking it;
- ii) to restructure the national economy so as to absorb the shock of the boycott, by producing locally the imported commodities denied to it or by making some *substitutes* for them, by finding alternative employment for people made jobless, and so forth; and
- iii) to organize changes of trade with third parties, or via third parties or, if the boycott is truly universal, to engage in smuggling<sup>19</sup>.

Military sanctions that includes technological sanctions also functions the way

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19 Ibid., pp.25-26.

economic sanction functions in terms of the concept of vulnerability and counter strategies of a target states.

### **Generic Knowledge**

Economic Sanction for foreign policy purposes have had a long and controversial history. They were employed in ancient Greece and made an early appearance in American history. In one of the well known steps leading to the American Revolution the colonists resorted in 1765 to a boycott of the English goods and response to the Stamp Act and raised the famous cry of "No taxation without representation". The British repealed the Stamp Act the next year, but followed in 1767-70 with the Townshend Act to cover the salaries of colonial governors and judges. The colonists again retaliated with a boycott that eventually led to the Boston Tea Party of 1774<sup>20</sup>. Indeed sanctions occupy an important if not always distinguished place in the U.S. history. Sanctions helped trigger the war of 1812, weakened the confederacy a half century later, and were levied against Spain during the Spanish American war of 1898. The use of sanction then became part of the tradition of the United States.

Sanctions were also an important tool of American statecraft during the Cold War. At times, the target was the behaviour of the Soviet Union and its allies. Prominent among such efforts were the linking of Most Favoured Nations (MFN)

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20 Barry E. Carter. *International Economic Sanctions: Improving the Haphazard U.S. Legal Regime* (New York, 1998). p.8.

trade status to Soviet emigration practices and the embargo introduced against Cuba soon after the Communist take over. But the U.S. also resorted to sanction against other countries to settle what were viewed as illegal expropriations, to destabilize unfriendly governments, or to penalise foreign countries for their use of military force beyond their borders. In the 1970s and 1980s, sanctions also were commonly employed to further U.S. non-proliferation and human rights objectives<sup>21</sup>

Over the past decade international relations scholarship has promoted increased optimism about the utility of economic sanctions. While scholars who have long accepted that sanctions are more humane than military force, the first major wave of research on economic sanctions, during the 1960s and 1970s, reached a consensus that they were not as effective as military force. The conventional wisdom that advocates sanctions do not work, began to change in the mid - 1980s, however, as a new wave of scholarship challenged the earlier pessimism on the utility of economic pressure. Sanctions, many argued in the 1980s, had been underrated by policy makers and scholars because of over attention to a handful of famous failures (e.g. the League of Nations Vs Italy in 1935 and the United States Vs Cuba since 1960). Proponents of "new conventional wisdom" (optimistic school of thought) are aware that sanction are often an efficient instrument for achieving important political goals. Elizabeth Rogers captures this new found optimism:

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21 Richard N. Hass, ed., *Economic Sanctions and American Diplomacy* (U.S.A., 1998), p.3.

"Economic sanction are more effective than most analysts suggest. Their efficacy is underrated in past because unlike other foreign policy instruments sanction have no natural advocate or constituency.... As a result, their successes are widely unreported, while their failures are exaggerated by those with an interest in either avoiding their use, or in using other instruments"<sup>22</sup>.

There is no single cause which explains the popularity of sanctions in American Foreign Policy. There are, however, a number of inspirations and explanations. Sanctions can offer what appears to be a proportional response to a challenge in which the interests at stake are judged to be less than vital. In addition, sanction are a form of expression, a way to communicate official displeasure with a certain behaviour or action. They thus satisfy a domestic political need to do something and can serve to reinforce a commitment to a behavioral norm, such as respect for human rights or opposition to proliferation. In principle, such message - sending has the potential to affect the behaviour of uninvolved but observant third parties, possibly deterring them from taking some action for fear of being penalized.

American reluctance to use military force is another motivation - particularly in those instances in which U.S. interests are not deemed sufficiently important to justify casualties and high financial costs. Sanctions provide a visible and less

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<sup>22</sup> Robert A. Pape, "Why Economic Sanction Do Not Work", *International Security*, Vol.22, No.2, Fall 1997, p.91.

expensive alternative to doing nothing or limiting the U.S. reaction to rhetoric. Such sentiment captures the conditional support lent to economic sanctions by America's catholic bishops: Sanctions can offer a non military alternative to the terrible options of war or indifference when confronted with aggression or justice. In this sense, sanctions constitute not simply a form of expression but an action, one that appears to involve less risk and cost (be it human, financial or moral) than using military force.

The great frequency with which sanctions are used is also a result of the increased strength of single issue constituencies in American politics. Small, organized focused groups can have an impact far beyond their actual strength, especially (and as is often the case) when no equally focused countervailing force exists. Many vocal constituencies argue that sanctions contributed to the achievement of U.S. policy aims in the past - for example, in helping to bring about an end to communism in the Soviet Union or apartheid in South Africa - and can do so again in different contexts.

The growth of congressional power also helps explaining the prevalence of economic sanctions. The constitution divided the foreign affairs power between congress and the executive, and over the past quarter century there has been a shift in the pendulum towards congress. Thus sanctions are introduced regularly by member of congress - often at the behest of single or special interest groups - through legislation or as amendments to legislation.

The greater reach of media is another factor. The so-called CNN effect can increase the visibility through the United States of problems in another country and stimulate a desire on the part of Americans to respond. Sanctions offer a popular and seemingly cost-free way of so doing.<sup>23</sup>

The key evidence that sanctions can achieve ambitious foreign policy goals is the study by Gary Hufbauer, Jeffrey Schott, and Kimberly Ann Elliott (HSE) - a reconsideration of empirical record in the first large number of study of sanctions episodes - first published in 1985 and updated in 1990. The first most influential study conducted on the sanction of 115 cases by HSE favours optimistic school of thought and reports forty out of one hundred and fifteen cases, sanction succeeded. Further the study concluded that "although it is not true that sanctions 'never work' they are of limited utility in achieving foreign policy goals that depend on compelling the target country to take actions it stoutly resists... The success rate importantly depends on the type of policy or governmental change sought (HSE 2d ed., vol.1, pp. 92-93). Moreover, HSE found that the utility of sanctions had declined sharply overtime with less than one in four sanctions having any success at all in the 1970s and 1980s, even fewer where the U.S. acts unilaterally".<sup>24</sup> But

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23 Richard N. Hass, ed., *Economic Sanctions and American Diplomacy* (U.S.A., 1998), pp.2-3.

24 Kimberly Ann Elliott, "The Sanctions Glass: Half Full or Completely Empty?" *International Security*, Vol.23, No.1, Summer 1998, pp.50-51.

Robert A. Pape sharply disagreed with the conclusion of HSE studies. He raised doubts against the claim that economic sanction can achieve major foreign policy goals. He provides evidence also for this conclusion by studying the 40 successful cases of HSE studies and argues only five out of forty cases really succeeded. Pape attributes this failure of HSE study for the flawed method of study HSE adopted.<sup>25</sup> But Kimberly Ann Elliott one among the HSE group argues that Pape's defining of success in a sanction case is very "narrowly limited" which caused to the sharp disagreement over the utility of sanctions.<sup>26</sup>

But Pape again asserts his argument in his another reply article - Why Sanctions Still Do Not Work? - "contrary to Elliott's response, it is not true that my study and the original HSE study ask different central questions. Infact, both studies seek to identify the effectiveness of economic sanctions not as a complement but as a substitute for other instruments of statecraft"<sup>27</sup>

The past experience of sanctions generally is not crystal clear to those who look into the effectiveness of sanction in achieving foreign policy goals of the U.S., but it has always been misleading since there has been no end to the hot debate over

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25 Robert A. Pape. "Why Economic Sanction Do Not Work" *International Security*. Vol.22. No.2. Fall 1997. p.93.

26 Kimberly Ann Elliott. "The Sanctions Glass: Half Full or Completely Empty?" *International Security*. Vol.23. No.1. Summer 1998. p.57.

27 Robert A. Pape. "Why Sanctions Still Do Not Work". *International Security*. Vol.23. No.1. Summer 1998. p.69.

the utility of sanction by pessimistic school of thought and optimistic school of thought. Till 1988 the United States employed sanctions sixty two times either alone or with other countries.<sup>28</sup> The U.S. now maintains economic sanctions against literally dozens of countries. One recent study listed no less than thirty five countries that had been targeted by now American sanction from 1993 to 1996 alone<sup>29</sup> affecting forty two percent of the world's population.<sup>30</sup>

The most well-known cases of the U.S. sanction in the Post- Cold War era are sanctions on China, Cuba, Haiti, Iran, Iraq, Libya, Pakistan and the former Yugoslavia as target countries. The reports of a recently held study on this eight Post- Cold War cases by Richard N. Hass and his et. al. in 1998 are not encouraging enough to the policy-makers who want to employ the instrument of sanctions. In his study he draws conclusion and puts forth ten lesson learnt by his experience.

**Sanctions alone are unlikely to achieve desired results if the aims are large or time is short.** Evidence supporting these assertions is plentiful. Sanctions - even when they were comprehensive and enjoyed almost universal international

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28 Barry E. Carter, *International Economic Sanctions: Improving the Haphazard U.S. Legal Regime* (New York, 1998), p.8.

29 Richard N. Hass, *Economic Sanctions and American Diplomacy* (U.S.A., 1998), p.1.

30 David W. Drezner, "Serious About Sanctions", *The National Interest*, Washington D.C., Fall 1998, p.66.

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backing for nearly six months - failed to get Saddam Hussein to withdraw from Kuwait. In the end, doing so took nothing less than operation desert storm. Other sanctions also have fallen short of their stated goals. The Iranian regime remained defiant in its support of terrorism, its subversion of its neighbours, its opposition to the middle east peace process, and in pressing ahead with its nuclear weapons programme. Fidel Castro continued in place atop a largely authoritarian political system and a statist economic counterpart. Libya refused to produce the two individuals accused of responsibility for the destruction of Pan American Flight 103 over Lockerbie.<sup>31</sup> Sanctions could not persuade Haiti's junta to honor the results of an election. Nor could they dissuade Serbia and others to call off their military aggression for several years. And, nearly a decade after Tiananmen square, China continued to export sensitive, proliferation - related technologies to selected countries and remained a society where human rights were often violated.

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31 But now the situation has changed. Libya has recently surrendered two of its nationals who were accused by the United States and Britain of blowing up Pan American flight 103 over Lockerbie, Scotland, on December 22 1988, killing 270 people. And also, in July 1999, Libya promised to cooperate fully with Scotland Yard in a case in which Libyan People's Bureau in London was accused of responsible for the shooting of a woman police officer in 1984. Libya's obvious cooperation in the trial has prompted the UN Security Council to make a further gesture towards lifting of sanctions. It is noteworthy here that the US has opposed any formal steps by the council, in the form of resolution, to declare the council's willingness to lift the sanctions by saying that Libya still has to fulfil many requirements in the ongoing investigation into the Lockerbie bombing incident. Libya's compliance with the demands of the UN Security Council could be attributed mainly to the pressures of multilateral sanctions imposed by the UN at various time since 1984. The additional military pressure which was built upon Col. Muammar Qadhafi's regime in the early 90s by the US military intervention, also to some extent accounts for the Libya's compliance in this regard. Eventhough new developments have emerged in the experiment of sanctions on Libya, the observations out of the this new developments still remains by and large with in the framework of Richard N. Hass and Robert A. Pape: sanctions alone are unlikely to achieve desired results if the aims are large or time is short.

**Under the right circumstances, sanctions nevertheless can achieve (or help to achieve) various foreign policy goals ranging from the modest to the fairly significant.** For instance, sanction introduced against Iraq in the aftermath of the Gulf War clearly have increased Iraqi compliance with resolutions calling for the complete elimination of its weapons of mass destruction. Such sanctions also have much diminished Iraq's ability to import weapons and weapons related technology of any sort. The result is that Iraq today is considerably weaker militarily and economically than it would have been without these sanctions.

**Unilateral sanctions are rarely effective.** All of the cases, with the exception of Iraq and the former Yugoslavia, involve sanctions that are in part or in whole unilateral. The critical issue here is a general lack of effectiveness. In a global economy, unilateral sanctions tend to impose greater costs on American firms than on the target, which usually can find substitute sources of supply and financing. Unilateral sanctions did, however, have more often economic effect on Haiti and Cuba, which were heavily dependent on trade with the U.S. such impact is a far cry from realizing the desired aims of the sanctions, however. As a result unilateral sanctions, will be little more than statements or expressions of opposition except in those instances in which the tie between the U.S. and the target is so extensive that the latter can not adjust to an American cut-off.

**Sanctions often produce unintended and undesirable consequences.** This is the experience out of sanction imposed on Haiti. Sanctions increased the

economic distress on the island, which stimulated a massive exodus of people from Haiti to the United States. And the average Haitian suffered for more than the leaders of the junta. So some extent it is the reality in many of the other cases, where leadership are able to insulate themselves.

**Sanctions can be expensive for American business, farmers and workers.**

Sanctions, however, affect the economy by reducing revenues of U.S. companies and individuals. Moreover, even this cost is difficult to measure because it needs to reflect not simply lost sales but also forfeited opportunities stemming from governments and overseas companies electing not to do business with the U.S. for fear that sanctions might be introduced and thereby interrupt the supply of spare parts or otherwise complicate or prohibit normal commercial relations. Still, one recent study concludes that in 1995 alone, sanctions cost U.S. companies between \$ 15 billion and \$ 19 billion in the process affecting some 200,000 workers.

**Authoritarian, statist societies are often able to hunker down and withstand the effects of sanctions.** All eight of the case studies involve states that are, to one degree or another, authoritarian. The reasons for this phenomenon may be several : Sanctions sometimes trigger a rally-round the - flag, a nationalist reaction; sanctions, by creating scarcity, enable governments to better control distribution of goods; and sanctions create a sense of seige which governments tend to exploit to maintain political control.

**Military enforcement can increase the economic and military impact**

**(although not necessarily the political effect) of a given sanction.** For instance, the sanctions against Iraq were far tighter than they would have been had compliance been voluntary. Indeed, leakage was greatest along through routes such as Jordan where international presence and enforcement were relatively weak. Similarly, sanctions against Serbia were weakened by the absence of a strong, land based military force to compel compliance and intercept contraband.

**Sanction increase pressures to intervene with military force when they are unable to resolve the crisis at hand.** Such pressure was welcomed by the Bush administration in the aftermath of Iraq's invasion of Kuwait. In this instance the imposition of sanctions and their inability to persuade Saddam Hussein to depart Kuwait had added benefits: they provided time for coalition military preparations to take place and then made it less difficult for the Bush administration to build domestic and international support for the use of military force. What all three of the Iraqi Haitian and Yugoslavian examples have in common is that sanctions were introduced in response to a crisis rather than amid what might be described as an on going situation. Only when time is of the essence will the inability of sanctions alone to accomplish policy goals lead to demands for escalation to military force. Otherwise, and as the remaining cases show, the American public appears willing to tolerate sanctions even though they do not appear to be accomplishing their stated purpose.

**Sanctions tend to be easier to introduce than lift.** This is true no matter if the sanction is established through a U.N. security council resolutions or a law passed by congress and signed by the president. Removal of a sanction is possible when a situation resolves or clearly reverses itself - such as was the case in Haiti following the invasion and occupation - but this is the exception. It is often difficult or impossible to build a consensus for reseiding the sanctions.

**Sanctions fatigue tends to settle in over time, and as it does, international compliance tends to diminish.** In part this is because the issue that led to sanctions being introduced loses its emotional impact. International support for sustaining sanctions fades as the cumulative cost of maintaining the sanctions mounts. Concerns over the humanitarian impact of sanctions also weakens the resolve. At the same time, the target of the sanctions has time to adjust. Working around sanctions, import substitution, and the gradual improvement of living standards due to adaptation have ended the impact of sanctions against Iraq, Libya and Cuba.

Interestingly, fatigue seems to be less of a factor in diluting American support for sanctions (be they unilateral or multilateral), perhaps because sanctions tend to get "locked in" and the domestic political costs of removing them become overwhelming.<sup>32</sup>

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32 Richard N. Hass, ed., *Economic Sanctions and American Diplomacy*, (U.S.A., 1998), pp. 197-205.

### **Sanctions on India and Pakistan: The Past Experience**

Even the past U.S. experience of sanctions with South Asia is also not encouraging as it failed due to so many factors which caused unwanted consequences. Even before May 1998 Nuclear Tests of India and Pakistan the U.S. imposed sanctions on independent India and Pakistan several times, keeping its high concern for nuclear non-proliferation into mind. These sanctions mostly have been on technological transfer of nuclear physics to India and Pakistan in order to destabilise their nuclear programme. But it was not universal sanction in nature but individual sanction which hits only particular individual company that supposedly engaged in nuclear power programme.

On June 13, 1965, the U.S. changed its regular PL 480 food aid to India to a "short tether" policy in which India had to make specific requests that would be divided individually. The purpose was to compel India to expand investment in domestic fertilizer production and other agricultural inputs, so as to increase food production and reduce demand for U.S. aid. Because of drought, the United States made substantial shipments to India in 1965 and 1966. In 1966 India increased both its acreage under irrigation and its production of fertilizer in February 1967 the United States reinstated regular PL 480 food aid. But this cannot be considered a sanctions success, because there is strong evidence that India's behaviour would

have been the same whether or not the U.S. had changed its aid policies<sup>33</sup>. After the Tarapur fuel supply issue between the U.S. and India, the U.S. cut - off all material aid to the nuclear power programme of India. But seemingly it did not hurt India's development in the nuclear power project. Since then throughout the rest of the decades till May 1998 nuclear test, the U.S. had been imposing individual sanctions at times. Even in May 1996 the U.S. imposed sanction on certain Indian companies which were considered by U.S. as having connection with India's missile programme. It should be mentioned that throughout the sanctions, India sustained with its own self-sufficiency in technology development and fissile material production.

After Jimmy Carter became President, Washington intensified efforts to block the French reprocessing plant to Pakistan. To provide the administration with greater leverage, Congress adopted amendments by senators John Glenn (D- Ohio) and Stuart Symington (D-Mo) to bar assistance to countries providing or receiving reprocessing (1976) or Uranium enrichment plants (1977). Economic sanctions thus became a weapon in U.S. efforts to sway Pakistan policy.

October 1, 1990, passed with presidential certification, and Pressler amendment sanctions went into effect, U.S. economic and military aid to Pakistan, slated to be \$ 564 million during fiscal year 1991 stopped.

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33 Robert A. Pape. "Why Economic Sanctions Do Not Work". *International Security*. Vol.22. No.2. Fall 1997. p.127.

In 1994, fresh trouble arose over intelligence reports that China was supplying nuclear - capable M-11 missiles to Pakistan in violation of the Missile Technology Control Regime (MTCR), international ground rules to prevent the spread of Missile Technology. In accordance with U.S. law, the United States imposed sanctions affecting up to \$1 billion worth of Chinese exports, but with negligible impact on Pakistan. In October 1994, after the Chinese agreed to abide by the MTCR, Washington lifted the sanctions. In dealing with the sensitive M. 11 missile issue, Washington once more subordinated non-proliferation concerns to a higher priority, - in this case, U.S. - China relations.

In terms of effectiveness however, sanctions against Pakistan clearly have failed to achieve their principal goal - preventing the development of a nuclear weapons capability. Conceivably in the mid 1970s, the threat of sanctions confined with sufficient carrots might have worked. The nuclear programme was just beginning and its prospects were uncertain. Yet Pakistan's obsessive fear of India, the chances for success were never great unless Washington offered Islamabad an iron-clad security guarantee against India - something no American administration ever has been willing to do.

Pressler sanctions probably have had little direct impact on the Pakistan's nuclear programme. Having achieved its goal of developing a deterrent against India, Pakistan has had neither the desire nor the capability to engage in a genuine and expensive nuclear arms race. The more important military impact of sanctions

has been to weaken Pakistan's conventional defense posture. The Pakistan Air Force, in particular, has been hit by U.S. refusal to deliver previously purchased F. 16s and by problems in obtaining spare parts for its existing inventory. Alternative approaches would have been proven more effective. In retrospect, the United States would have been wiser to have targeted sanctions against Pakistan's defense sector, to have barred arms transfers and military co-operation.

Finally, the Pakistan experience points up how hard it is to achieve a fundamental change in the national security policy of another country, unless as in the case of Korea and Taiwan, that country is dependent on the United States for its survival - or thinks it is<sup>34</sup>

### **Legality of the Sanctions**

The past U.S. sanction on South Asia is mostly aimed at its goal of achieving nuclear non-proliferation. The U.S. government is possessed with strong legal regime for imposition of sanction for the case of prevention of proliferation of Weapons of Mass Destruction (WMD) that includes the case of nuclear proliferation, missile proliferation and chemical or Biological weapons as well.

Each sanction has its own duration, severity, and comprehensiveness or selectivity. Each section of law has its own terms for triggering the imposition, as well as reporting on, easing or tightening, waiving and terminating the sanction.

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34 Dennis Kux, "Pakistan" in Richard N. Hass, ed., *Economic Sanctions and American Diplomacy* (U.S.A., 1998), pp.159-172.

Some laws make sanctions mandatory; others provide discretionary authority to the president to impose sanctions. Nearly all laws include some sort of waiver authority that allows the president to not to impose the sanction even if an incident warrants it. Only a few laws specifically spell out what recourse congress might take when it finds itself in disagreement with the executive branch on the imposition, waiving or termination of a sanction.<sup>35</sup>

The Arms Export Control Act (AECA), section 102(b), which assumes primary concern here because of India and Pakistan have conducted series of nuclear tests in May 1998. also has its own duration, severity and comprehensiveness or selectivity. Section 102 (b) of the Arms Export Control Act (AECA), as amended prohibits a variety of assistance and commercial transactions between the United States and any country if the president determines that the country - if it is a non-nuclear weapon state - has among other things, detonated a nuclear explosive device. President Clinton denounced India's conducting of several nuclear explosive device tests over May 11-13, 1998, and on May 13 issued a written determination to congress. The President likewise determined on May 30, 1998 that Pakitan was a non-nuclear weapon state that had detonated nuclear explosive devices on May 28th and 30th.

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35 Dianne E. Rennack and Robert D. Shuey, "Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law". (Congressional Research Service. The Library of Congress. 1998). p.7.

Section 102 (b) (4) (A) of the Arms Export Control Act, as amended, authorizes the president to delay the imposition of these sanctions for 30 days. For an interim period, congress, with passage of the Agriculture Export Relief Act of 1988 (public law 105-194) has exempted US DA - financed transactions relating to agricultural commodities, and on a permanent basis has exempted fertilizer, medicines, and medical equipment from the application of sanction under the AECA. Congress has taken up several other initiatives to alter or suspend the sanctions, or to grant the president more flexibility in waiving the nuclear detonation sanctions that are pending at some unfinished state in the legislative process.

#### **Other Statutes in Law**

Other statutes by which sanctions could be imposed against India and Pakistan for their nuclear explosive device detonations is, for the most part, redundant to the provisions stated in the Arms Export Control Act. Each of the following provisions of law are either waivable, not mandatory at the outset, or only provide guidance toward restricting transactions with a targeted state:

- Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 USC 635(b)(1)(B)), states that the President may determine it is in the national interest for the Ex-Im Bank to deny applications for credit to "clearly and importantly advance United States policy in such areas as...nuclear proliferation..."
- Section 2(b)(4)(A), (C) of the Export-Import Bank Act of 1945, as amended (12 USC 635(b)(4)(A), (C)), authorizes the Secretary of State to determine that a

non-nuclear-weapon state has detonated a nuclear explosive device, and that therefore ExIm Bank guarantees, insurance, or credit, shall be denied. The Secretary of State made such a determination relating to India on May 13. She issued such a determination relating to Pakistan on May 28. This section would be waived for one year if the Senate-passed language in the Agricultural Appropriations Act, 1999, survives conference and is signed into law.

- Section 823 of the Nuclear Nonproliferation Prevention Act of 1994, as amended (108 Stat. 512), requires the Secretary of the Treasury to instruct U.S. executive directors to each of the international financial institutions to oppose any use of the institution's funds to promote the use of any nuclear explosive device by any non-nuclear-weapon state.
- Section 701 of the International Financial Institutions Act, as amended (22 USC 262d), requires the Secretary of the Treasury to instruct U.S. executive directors to the international financial institutions to consider whether a country under consideration for receiving financial support has detonated a nuclear explosive device.
- Section 129 of the Atomic Energy Act of 1954, as amended (42 USC 2158), prohibits the exportation of nuclear materials and equipment or sensitive nuclear technology to any non-nuclear weapon state that is found by the President to have detonated a nuclear explosive device.<sup>36</sup>

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36 Richard P. Cronin and Others. "India - Pakistan Nuclear Tests and U.S. Response" (Congressional Research Service. The Library of Congress, Washington D.C., 1998), pp.20-29.

## **CHAPTER II**

### **IMPOSITION OF SANCTIONS AND IMPACT OF SANCTIONS**

## **CHAPTER II**

### **SANCTION IN ACTION**

#### **IMPOSITION OF SANCTIONS**

On May 11 and 13, 1998, India conducted, a series of total of five underground nuclear tests named "Shakti 98" and coded "Buddha Smiled", at the Pokhran test range in the Rajasthan desert, breaking a twenty four years self-imposed moratorium on nuclear testing ever since India conducted its first nuclear explosion in 1974 naming peaceful nuclear explosion (PNE). Indian Prime Minister Mr. Atal Behari Vajpayee announced the logic for the Indian nuclear tests in the same evening in a press meeting. It was well understood that he indirectly pointed at the two neighbour country China and Pakistan, the arch rival, as a threat to India's national security. Then again India went for another round of two more nuclear tests - Shakti - 4 and Shakti-5 on May 13, causing a sharp bitterness and reaction in Pakistan and setting off a worldwide storm of criticism.

Pakistan reacted to India's action, conducting a series of total of six nuclear tests - Five nuclear tests on May 28 and one more nuclear test on May 30, 1998 - at Chagai hills in north western Baluchistan of Pakistan. The United States and other nations expressed their dismay and condemnation over the nuclear tests conducted by both India and Pakistan.

The US President William Jefferson Clinton announced, on May 13, that he was imposing economic and military sanctions on India, mandated by section 102 of the Arms Export Control Act (AECA). Clinton administration applied the same sanctions to Pakistan on May 30.

In the outset it may not be difficult to figure out "why the US administration imposed sanctions on India and Pakistan? These were instant reaction and response to India and Pakistan's successive nuclear tests which invited the stringent US non-proliferation law against themselves. But the factors that led the US to prefer immediately sanctions as an instrument of foreign policy in the case of India and Pakistan are yet to be known. Eventhough the current sanctions imposed on India and Pakistan is automatic because of the stringent US non-proliferation regime, the imposition of sanctions could have been delayed by one month, using the president's authority to delay it. Moreover there are also other instruments of foreign policy that could have been employed to achieve the same goals. But none of these actions were adopted. Nevertheless, there exist sufficient reason to examine what factors led the US to prefer immediately sanctions as an instrument of foreign policy in the case of nuclear India and Pakistan.

At the outset of the analysis on the role of sanctions in American foreign policy this question assumes relevance to understand the different nature of diplomacy of sanction.

### **Sanctions: Mandatory to the Conditions**

The US response to India and Pakista's nuclear tests, centers on the imposition of wide-ranging, largely economic and technological sanctions under the Arms Export Control Act (AECA) and other legislation. Section 102(b) of the Arms Export Control Act as amended. [The language prohibiting US foreign assistance to any non-nuclear weapon state that detonates a nuclear explosive device was originally incorporated in 1977 in to the Foreign Assistance Act of 1961 as section 670. It was amended and restated in 1981, and amended again and moved from that Act to the AECA section 826(a) of the nuclear non-proliferation prevention Act of 1994.] prohibits a variety of assistance and commercial transactions between the US and any country if the president determines that country - if it is non-nuclear weapon state - has, among other things, detonated a nuclear explosive device. President Clinton denounced India's conducting of several nuclear explosive device tests on May 11 and 13, and on May 19 issued a written determination to the Congress to impose sanctions.<sup>1</sup> The President likewise determined on May 30, 1998 that Pakistan was a non-nuclear-weapon state that had detonated nuclear explosive devices on May 28 and 30.<sup>2</sup> Issuance of these determinations triggered mandatory imposition of the sanctions pursuant to section 102(b) 2.

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<sup>1</sup> *Weekly Compilation of Presidential Documents*. Washington D.C., Government Printing Office. 13 May 1998, p.855.

<sup>2</sup> *Ibid.*, 30 May, 1998, P.1004.

Section 102(b) (4) (A) of the AECA, as amended, authorizes president to delay the imposition of these sanctions for 30 days<sup>3</sup> in order to provide the president an opportunity to see if something can be worked out beyond imposition of sanctions. But even if that happens, the President, unlike most of the American laws, does not have the power to waive. During the 30 days time - the cooling off period - the Congress would then have the opportunity to repeal the sanctions or revise them in some ways.<sup>4</sup> Section 102 (b) (4) and (5) of the AECA, as amended, lays out a procedure to give the president further authority to waive the sanctions in whole or in part. The procedure, however, is applicable only if the president had invoked the 30 - day delay. Section 102(b) does not otherwise state a standard to be met by India and Pakistan to have the sanctions lifted, nor a means by which the sanctions would be suspended or terminated.<sup>5</sup>

Making of a law in the US congress could be easier than unmaking it. A favorable situation and justification of factors at that time in congress for a particular law is enough to make that law. But after some period while the government wishes to rescind the sanctions law, there could be a lack of consensus

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<sup>3</sup> Richard p. Cronin and others, *"India-Pakistan Nuclear Tests and US Response"*. (Congressional Research Service. The library of Congress, 1998). p.27.

<sup>4</sup> Weekly Compilation of Presidential Documents, Washington D.C., Government Printing Office. 13 May, 1998. p.854.

<sup>5</sup> Richard P. Cronin and others, *"India-Pakistan Nuclear Tests and US Response"*. (Congressional Research Services The Library of Congress, 1998). p.27.

in Congressional joint resolution to unmake the same law. Therefore, even if congress would have utilized the "cooling off period" of 30 days, probably it would have been very difficult to reach consensus and muster support for revoking the same law or amending it. Such inertia is not unique to sanctions only. It is always more difficult to change the status quo than continue with it when the burden of acting falls on those favoring change.

On one account, because of this complexity of law making and un-law making process in the congress and nature of the stringent non-proliferation law, AECA or Glenn Amendment - mandatory in nature- the Chief Executive of US had to invoke sanctions law immediately.

**Failure of Persuasion:**

Presumably, the president had his authority to delay imposition of sanctions for 30 days in his mind when his administration involved in the process of persuading the government of India after the first days nuclear detonations. "The President's decision - made abroad Air Force one as Mr. Clinton traveled to Germany - came after a hectic day in which the administration had offered India a way to avoid the sanctions if it would disavow any future testing or deployment of nuclear weapons".<sup>6</sup> Mr. Clinton said he was "deeply disturbed" by India's tests, although he stopped short of announcing the sanctions instead he called on India to

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<sup>6</sup> The New York Times. New York. p.1

conduct no further tests and to sign "now and without conditions" the Comprehensive Test Ban Treaty, which prohibits all experiments with nuclear explosion".<sup>7</sup>

The president's remarks largely evoked what Administration Officials had been conveyed to the Indians in private in a late appeal to persuade them to stop back from their widely denounced decision to conduct India's first nuclear tests since 1974".<sup>8</sup> But Prime Minister Mr. Atal Bihari Vajpayee "did not address the proposals but simply offered an unrespondant justification for the test."<sup>9</sup>

Probably, the mandatory nature of the AECA was meant to possess deterrence effect on future, probable violate of the norms of the non-proliferation law.

Karl Inderfurth, Assistant Secretary of state for South Asian Affairs says mandatory nature of sanctions were desgned "primarily as a deterrence".<sup>10</sup> Failure of the deterrence of AECA was proved by India's nuclear tests. Therefore, US administration tried persuasion which also ended in futile.

Therefore, as the Clinton Administration failed to obtain any committment by India on future nuclear test, the President's decision of denouncing immediate

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<sup>7</sup> Ibid., p.14.

<sup>8</sup> Ibid., p.14.

<sup>9</sup> The New York Times. New York. p.14.

<sup>10</sup> Official Texts. "Inderfurth. US Chagrined to implement Sanctions on India, Pakistan", 19 June. 1998. p.1

imposition of sanctions was made. President was also probably disappointed to announce sanctions, as there was also no clear intention of India to sign CTBT then and without any conditions.

### **Delay in Imposition of Sanctions Encourages Further Nuclear Proliferation**

The US administration perceived, immediate invocation of the AECA against India would deter Pakistan and other threshold countries as well in the future from retaliatory reaction to India's nuclear tests and would contain further nuclear proliferations. On May 12, 1998, the US president said "I do not believe it (nuclear tests conducted by India) contribute to building a safer 21st Century. The United States strongly opposes any new nuclear testing. This action by India not only threatens the stability of the region, it directly challenges the firm international consensus to stop the proliferation of weapons of mass destruction.... As ... our laws have very stringent provision, signed into law by me in 1994, in response to nuclear tests by non-nuclear weapon states, and I intent to implement them fully"<sup>11</sup> Inderfurth also said before Senate panel on India's nuclear tests: "India's decision to conduct these nuclear tests explosion is a serious violation of international non-proliferation norms and a repudiation of international efforts to contain the further spread of nuclear weapons and pursue nuclear disarmament.....While India's tests have created new challenges for the international non-proliferations regime, we will

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<sup>11</sup> Weekly Compilation of Presidential Documents, Government Printing Office, Washington D.C., 12 May, 1998, p.847.

continue to seek ways to create new opportunities. We will use these developments to all attention to the inherent risks associated with nuclear weapons proliferation and to mobilize international support for all possible steps to guard against an escalation of tension and confrontation in South Asia."<sup>12</sup> These remarks clearly states the US perception that delaying of imposition of sanctions would definitely encourage Pakistan and other threshold countries for horizontal nuclear proliferation.

And in the case of Pakistan's sanctions also, presumably the US had similar perception that determined the US administration to impose swift sanctions, after Pakistanis first round of nuclear tests on May 28.

These could be the most credible inference, that could be drawn from existing facts and remarks made by various US government officials, for the question - Why the US preferred sanction immediately. This question, why the US preferred immediately sanctions itself has two different view of questions - why US immediately preferred sanction without 30 days delay using presidential authority? and, why the US immediately preferred sanction rather than other instrument viz - Diplomacy, propaganda, counter proliferation actions to achieve its non-proliferation goals

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<sup>12</sup> Official Text. "Inderfurth before Senate Panel on India's Nuclear Tests". 14 May, 1998. p.4.

### **Sanctions Tool More Effective**

Now, having turned to second view of the question, it is better to notice that already this issue has been put into robust debate over a long period world wide in general and US in particular but no ultimate conclusion reached yet - whether sanctions is an effective instrument of foreign policy or not. At the outset of this research work, the sharp disagreement, between optimistic school of thought and pessimistic school of thought on sanction's effectiveness has been brought out. It is evident enough, since US considered sanction's instrument to be more effective than any other foreign policy tools to achieve foreign policy goals, US lawmaking body preferred sanction as a mandatory and effective instrument. International political trend towards closer interdependence particularly in terms of economy and to some extent in terms of technology as well might have led US to perceive sanctions to have greater leverage over influencing the behaviour of other nations. It would be premature to conclude or infer much about this issue, since the debate is yet to come to an end.

### **IMPACT OF SANCTIONS**

Section 102 (b) of the Glenn Amendment, Prohibits a variety of assistance and commercial transactions between the US and any country that detonates a nuclear explosive device. The following mandatory sanctions which is of seven category have been in pursuant to section 102 (b)2.

- I) Termination of US assistance under the Foreign Assistance Act of 1961, except for humanitarian assistance, food or other agriculture commodities (Sec.102 (b) (2) (A)).
- II) Termination of US Government sales of defence articles, defence services, design and construction services, (Sec. 102 (b) (2) (B) (i)) and licenses for exportation of US Munitions list items (sec. 102(b) (2) (B) (ii)).
- III) Termination of foreign military financing under the Arms Export Control Act (sec.102(b) (2) (C)).
- IV) Denial of any credit, credit guarantee or other financial assistance by any department agency, or instrumentality of the US Government, excluding those related to humanitarian assistance or congressional oversight of intelligence activities (sec.102(b) (2) (D)).
- V) Opposition in accordance with sec. 706 of the International Financial Institution Act, the extension of any loan or financial or technical assistance to the target country by any international financial institution (sec.102 (b) (2) (E)).
- VI) Prohibition on any US bank from making any loan or providing any credit to the government of the target country, except for the purpose of purchasing food or other agriculture commodities (sec.102 (b) (2) (F)).
- VII) Prohibition on export "of specific goods and technology" excluding food, agricultural commodities or items related to congressional oversight of

intelligence activity, in accordance with section 6 of the Export Administration Act of 1979 (50 USC APP. 2405), relating to foreign policy controls.(sec.101(b) (2) (G)).<sup>13</sup>

Eventhough it is too early to measure exact impact of sanction on India and Pakistan, rough estimation could be possible by comparing the current years and past economic data. Scaling the impact of sanctions through the perception of both the target country and the sanctions, with the data released by the country concerned would facilitate to reach a fair measurement of impact of sanctions. All the above mentioned VII categories of sanctions impact over India and Pakistan are to be analyzed one by one to make sure that the evaluation encompasses the all relevant aspects of sanction.

**(I) Termination of the US assistance under the Foreign Assistance Act of 1961, except for humanitarian assistance food or other agricultural commodities.**

**India:**The US has been extending economic assistance to India since 1951. It is in the perception of India that while the US was major donor in earlier years, recently its contribution has declined substantially. Because of the imposition of sanctions the Most immediate damage was the blockage of concessional funds to India through both bilateral and multilateral channels. Direct aid from the US, worth \$1.14

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<sup>13</sup> Richard P. Cronin and others. *"India-Pakistan nuclear Tests and US Response"*. (Congressional Research service. Library of Congress. 1998). p.21-26.

billion, and from Japan, worth \$1.40 billion has been withheld already.<sup>14</sup> According to the US government release in F.Y. (Fiscal Year) 1998, India was scheduled to receive an estimated \$54.3 million in US development assistance.

(The FY 1998 congressional presentation document estimates \$51.35 million for India in US development assistance. The upward adjustment of actual obligation of funds for 1998 FY and the programme breakout is based on conversation with AID staff in July 1998).<sup>15</sup> Of the total \$36.3 million is obliged to a variety of projects that are exempt from the sanctions; child survival projects (estimated \$13.97 million) polio prevention (\$4 million), HIV and AIDS programmes, family planning, women's support and some projects addressing environment issues [section 102 (b) (2) (A) of the AECA exempts "humanitarian assistance" from the application of sanctions but, does not define the term USAID has classified, in this instance, polio prevention, family planning, and some women's programmes, as humanitarian assistance. Furthermore, section 522 of the Foreign Operation Appropriations, 1998 (P.L. 105-48), States that funds for child survival AIDS, and other activities may be provided "notwithstanding any provision of law that restricts assistance to foreign countries"]. \$12 million in obligations for financial sector reform and agribusiness is terminated. \$6 million in fund obligated for green house

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<sup>14</sup> Rohit Saran. "Economy & Policy". Business Today, Mumbai, 22 May, 1998, p.18.

<sup>15</sup> Richard P-cronin. "India - Pakistan Nuclear Tests and US Response". Congressional Research Service, Library of Congress 1998, p.21.

gas pollution prevention is currently suspended (but could be restored). Further, aid for India approved in prior years that has not yet been expanded is also at risk. The administration's \$41 million in FY 1999 development and budget request for India (excluding \$14.5 million for child survival and AIDS programmed) could be blocked. India would have received \$475,00 in FY 1998 through the International Military Education and Training programme (IMET). It is slated to receive \$4500000 in FY 1999.<sup>16</sup>

India was also slated to receive \$91.88 million in food assistance in FY 1998 and 91.75 million in FY 1999 through PL 480 title II, which have not been cut off.<sup>17</sup>

According, to India's estimation, indeed if debt-servicing payments are taken into account, there is a net flow of funds from India to US on account of development loans. The White House Sheet puts loss on account of termination of development assistance at \$142.3 million. Govt of India's estimate of utilization of aid from the US government, however, puts it at a lower figure. Clearly there is a discrepancy here, at least in perception. The chances are that the Indian figures are closer to reality.<sup>18</sup>

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<sup>16</sup> Ibid., p.21.

<sup>17</sup> Ibid., p.21.

<sup>18</sup> *Sanctions: Indo-US Perspectives*. (Asian-Institute of Transport Development, New Delhi, 1998) p.33.

**Pakistan**: Pakistan has not been eligible to receive US foreign assistance since FY 1991, when president Bush declined to certify that Pakistan did not have nuclear explosive device and that US assistance "would reduce significantly the risk that Pakistan will possess a nuclear device" [section 620 E(C), of the Foreign Assistance Act of 1961 (22 U.S.C. 2375), popularly referred to as the Pressler Amendment, currently prohibits military assistance to Pakistan unless the president makes such a determination. Added to the Act in 1985, it originally prohibited all assistance; in 1995 the prohibition was narrowed to refer only to military assistance (with enactment of the Brown Amendment). President issued determinations annually for 1985-89]. This restriction was eased in 1995 to prohibit only military assistance. For FY 1998, Pakistan received \$1.5 million in international narcotics control funds and \$5.22 million in PL480 title II food assistance both exempt from the sanctions. In FY 1999 the Administration has requested \$2.5 million in narcotics control funding for Pakistan, which would be exempted. The Administration has also requested \$350,000 in IMET funding for Pakistan for FY 1999 which would be prohibited.

The President could invoke section 614 of the Foreign Assistance Act of 1961 (22 USC 2364) however, to release as much as \$50 million in foreign assistance funds and \$500 million in funds and transactions governed by the AECA to India and for Pakistan in any fiscal year notwithstanding any other restrictions in law.<sup>19</sup>

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<sup>19</sup> Richard P. Cronin, and others, "India - Pakistan Nuclear Tests and US Response", (Congressional Research Service, Library of Congress, 1998), pp.21-22.

Earlier, President Clinton had signed legislation exempting US grain exports from a ban on US commodity credit financing and had softened the sanctions to allow world bank funding of humanitarian projects such as water supply facilities.<sup>20</sup>

In this case even though there is a sharp discrepancy between the US estimation of impact and India's estimation of impact, one fact, that there is loss for India but not to the US, can not be denied. Because the transactions are one way in nature - financial assistance from US to India. So India is the loser whatever little assistance it loses.

In case of Pakistan also she only will loose in total near about \$2.75 million a meagre amount in favour of Financial Assistance.

**II. Termination of US Government sales of defence articles, defence services, design and construction services, (Sec. 102(b) (2) (B) (i)) and licences for exportation of US Munitions List items (Sec. 102(b) (2) (R) (ii)).**

The American Department of defence estimates that for each of F.Y. 1998 and FY 1999. India would have received \$230,000 in foreign military sales (FMS) orders. (India has not been a major purchaser of defence articles or services from the US from FY 1952 FY 1997, the total value of India's FMS purchase from the

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<sup>20</sup> The Times of India, New Delhi, 2 December, 1998, p.1.

US was about \$86.2 million). For FY 1997, \$29.9 million in commercial exports licences were approved for US sales of munition list items to India. Completion of these orders could be affected by the presidents determination.

The state department estimates that in FY 1998, \$6.85 million in munitions list item would be delivered to India: \$14.95 million of such item would be delivered in FY 1999.<sup>21</sup>

Indian government's estimates also to some extend similar to that of the US in this case. The sale of defence articles, defence services etc to India by the US have never been of much significance. Deliveries of such items under the Foreign Military Sales (FMS) programmes amounted to \$1.329 million during the ten -year period, 1987-1996. During the past five years, however, they have averaged only about \$23,000. The table shows the FMS agreements and deliveries during the period 1987-1996.

#### FMS Agreements and Deliveries (000\$)<sup>22</sup>

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
Agreement	-	5250	35	5	2000	-	1	-	15	-
Deliveries	126	14	675	40	359	36	12	31	24	12

<sup>21</sup> Richard P.Cronin, *"India-Pakistan Nuclear Tests and US Response"*. (Congressional Research Service, Library of Congress, 1998), p.22.

<sup>22</sup> *Foreign Military Sales, Military Construction sales and Military Assistance Facts*. Department of Defence Accounting Assistance Agency, 1997, p.17.

The White House fact sheet puts the effects of these sanctions of \$775,000. However, it is a fact that outstanding deliveries under FMS agreements already concluded were to the tune of \$6.124 million at the end of FY 1996 i.e. 30th September 1996.

The other two elements under this heading are sales of defence services and the International Military Education and Training (IMET) programme. There have been no sales of defence services from the US to India. As regards, IMET, the sales, have been minimal averaging \$ 263, 000 per year, during the period 1987-1996. The table shows the data for individual years.

### **International Military Education and Training**

**(IMET) ('000\$)**

1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
194	261	297	103	326	310	362	152	208	357

The number of students trained under this programme averaged less than 14 in the same period. The programme primarily reflect the US derive for a closer service-to-service co-operation with India rather than any dire India's need for such education or training.

And in the case of commercial purchase of military articles, there have been only limited commercial purchase of US military articles by India. These purchases have mainly been on account of defence research projects such as the LCA rather than for operational purposes. The value of commercial exports licensed under the AECA for the ten year period (1987-1996), was \$325 million. While bulk of items required for LCA project have already been acquired, there are still a few that have not been delivered, while their value may not be high and their critical requirement needs some study.<sup>23</sup>

**Pakistan:** Because of lack of access to Pakistani government documents related to this case, no figures are currently available for Pakistan. Pakistan received about \$60 million in defence sales and other export requiring licenses last year according to press accounts.<sup>24</sup> Now in the view of partially lifted sanctions, pentagon will resume international military education and training programmes in both India and Pakistan.

In this case of sanction, the nature of loss is obviously double edged sword - which causes damage for both the target and sanctioner - since the transaction is two way in nature. But the amount of loss in this case is near about \$49.5 mn in

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<sup>23</sup> *Sanctions: Indo-US Perspectives*, Asian Institute for Transport Development, New Delhi, 1998, pp.33-34.

<sup>24</sup> Richard P. Cronin and others, *"India - Pakistan Nuclear Tests and US Response"*, (Congressional Research Service, Library of Congress, 1998), p.22.

total for the FY 97, 98 and 99. This loss is again very small and causing very less effect on India.

In the case of Pakistan as already mentioned for the FY 96, Pakistan received \$60 million in defence sales and other exports. This is a considerable amount in proportion to Pakistanis defence budget, if Pakistan was supposed to receive the approximately same amount of defence articles in FY 1998 and 1999.

After the lifting of sanction partially, presumably pentagon resumes international military education and training programmes in both countries. But again this IMET have been a symbolic one having no strategic or defence value for India and Pakistan.

### **III. Termination of foreign military financing under the Arms Export Control Act. (Sec. 102(b) (2) (C)).**

**India & Pakistan:** There has been no US financing of military sales to India since 1962. Pakistan is ineligible for foreign military financing pursuant to restriction in section 620 E (e) of the Foreign Assistance Act of 1961, the so-called pressler Amendment. This statutory provision may be eligible for a one-year presidential waiver if the senate adopted language inserted in the pending Agricultural Appropriation Act (H.R. 4101) is signed into law.<sup>25</sup>

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<sup>25</sup> Ibid.. p.22.

**IV. Denial of any credit, credit guarantee, or other financial assistance by any department agency, or instrumentality of the US government, excluding those related to humanitarian assistance or congressional oversight of intelligence activities. (Sec.102(b) (2) (D)).**

**India:** This would apply, at a minimum, to Export - Import Bank (EXIM BANK) programmes, Overseas Private Investment Corporation (OPIC), Trade and Development Agency (TDA), Commodity Credit Corporation (CCC) and Dept of Agriculture (USDA) funding. In hearings on May 13, 1998, before the Near Eastern and South Asian Affairs Subcommittee of the senate committee on foreign relation, Karl Inderfurth speculated that the prohibition on Govt. financing agencies and US commercial banks could cost hundreds of million of dollars, affect projects already approved or in the pipeline, and could cause major US companies and financial institutions to rethink entirely their presence and operation in India.<sup>26</sup>

The EXIM Bank has been notified by the secretary of State that sanctions required under sec. 2(b) (4) of the EXIM Bank Act of 1945 must be invoked. Its operations consist primarily of support for export of capital goods through long-term loans, guarantees and insurance.<sup>27</sup>

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<sup>26</sup> *ibid.*, p.23.

<sup>27</sup> *Sanctions: Indo-US Perspectives*, Asian Institute for Transport Development, New Delhi, 1998, p.35.

According to US estimation, India is cut-off from \$20 million in agricultural export credits through the Commodity Credit Corporation (CCC), and \$5000 million in current EXIM Bank projects. The EXIM Bank, in announcing the closing of new business with India on May 13, projected that another \$3.5 million in US exports could be prohibited in the longer run.<sup>28</sup>

According to India's estimation during the financial year 1997 (Oct 1996 - Sept. 1997), the EXIM Bank's authorization in respect of India amounted to \$304.999 million, consisting of loans amounting to \$20.308 million guarantees for \$280.472 million and medium-term insurance for \$4.217 million. Overall EXIM Bank exposure in India amounted to \$1,403,492 million at the end of September 1997.

The EXIM Bank sanctions mainly affect US export to India. As the EXIM press release puts it, "EXIM Bank estimates that sanction will immediately affect approximately \$5000 million of US exports to India in pending transaction. It is therefore, likely that US will be affected more of these sanctions than India.

OPIC (Overseas Private Investment Corporation) is a key federal agency encouraging American private investment in developing countries. Its operation consist primarily of:

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<sup>28</sup> Richard P.Cronin and others. *"India - Pakistan Nuclear Tests and US Response"*. (Congressional Research Service. Library of Congress, 1998), p.23.

- Providing US investors against political risks overseas by providing insurance;
- Financing US business expansion overseas by providing long term limited recourse project financing; and
- Making equity capital available for investments in eligible emerging markets by guaranteeing long-term loans to private equity investment funds.

OPIC's exposure in India amounted to \$320 mn insurance coverage in the financial year 1996, and a single project financing of \$50 million in 1997. According to an OPIC press release, the sale of \$2000 million in political risk insurance to Enron oil and Gas company in 1996, will result in \$310 million worth of supplies of US goods and services to the project in its five year of operation, creating and supporting some 1.100 American jobs. However, the White House release had estimated the loss on account of OPIC at more than \$10 billion. This estimate, too seems to be more on the basis of expressed interests or probable applicants than any historical basis. The total exposure of OPIC in any one year is far less than \$5 billion.<sup>29</sup>

The US dept of commerce has announced that it will halt investments of about \$10 billion in infrastructure project that it had recommended to US companies. Less tenable is Washington's claim that other investments worth \$10.20

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<sup>29</sup> *Sanctions : Indo-US Perspectives*, Asian Institute for Transport Development, New Delhi, 1998, pp.35-36.

billion will also dry up because the OPIC will not underwrite loans worth that amount from state-owned agencies to US corporation doing business in India. For, last years figure stood at just \$700 million. In any case, having invested over \$6 billion in the country between 1991 and 1994 without commensurate returns, US corporate will find it difficult to withdraw. Therefore, a battle of wills between corporate USA and the Clinton administration was obvious.<sup>30</sup>

The trade and Development Agency (TDA) is a US government agency providing funds for US companies to conduct feasibility studies related to major projects in the developing countries. In this manner, TDA helps companies get involved in projects that offer significant export opportunities. Funding varies from year to year, but averages less then \$ 1 million per year. It should be remembered, however, that the funding is for US companies to conduct studies and is therefore, a subsidy to US companies and not any assistance to India or Pakistan.

Last year, there was a strong move in the US Congress to wind up the operations of OPIC and TDA as critics felt that these agencies were subsidising US companies in their commercial operations, an act considered against market principles. The agencies, on the other hand mounted a strong lobby claiming their operation assisted US exporters to stay competitive in the global markets. Therefore,

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<sup>30</sup> Rohit Saran. *"Economy & Policy"*, Business Today, 22 May, 1998, p.18.

it is possible that the sanction here might hurt the US interests more than Indian interests.<sup>31</sup>

**Pakistan**: The EXIM Banks, in announcing the closing of new business with Pakistan on June 1, 1998, stated that the Bank's current exposure in Pakistan was \$429.1 million and that potential projects were valued at approximately \$1.1 million. According to a sanctions fact sheet prepared by the State Department, OPIC had just resumed activities in Pakistan prior to the nuclear detonations tests. While the fact sheet provides no numbers, it is understood that OPIC's exposure there was negligible at the time of the imposition of sanctions.

Pakistan is also the leading foreign purchaser of the US harvest of White Wheat and the third largest foreign purchaser of US Wheat over all, importing 2.2 metric tones a year. The imposition of sanctions would have barred Pakistan from using the remaining \$88 million in USDA credits for FY 1998 Wheat purchase and prohibits the availability of \$350 million in credit for FY 1999. Congress, however, concerned about the future impact of this sanction on domestic wheat growers, passed the Agriculture Export Relief Act, which amended the AECA to exempt through September 30, 1999, "any credits, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity" from the apparatus of sanctions. The AECA

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<sup>31</sup> *Sanctions: Indo-US Perspectives*, Asian Institute for Transport Development. New Delhi, 1998. p.36.

was also amended to exempt permanently, medicines, medical equipment and fertilizer from the application of sanctions. Congress had to take further action, however to protect US Wheat sales after Sep. 30, 1999.

Resulting from the imposition of sanctions against India and Pakistan, and particularly stimulated by the debate relating to the prohibition of wheat sales, a broader change in the way of sanctions are employed in US foreign policy is under consideration. The senate passed Agriculture Appropriation bill includes the following language, pending House - senate conference. Notwithstanding any other provision of law, the president shall not restrict or otherwise prohibit any exports (including financing) of food, other agricultural products (including fertilizer), medicines or medical equipment as part of any policy of existing or future unilateral economic sanctions imposed against a foreign government.<sup>32</sup>

In view to partially waived sanction on December 1, 1999, the US EXIM Bank, OPIC and the TDA will now be able to participate in deals in both countries. In pursuant to his waiver authority President Clinton has authorised US officials to approve international bank loans and debt restructuring agreement with the IMF in case of Pakistan. Justifying the differing attitudes towards India and Pakistan on normal developmental world bank loans the US official said that while sanctions had

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<sup>32</sup> Richard P. Cronin and others. "India- Pakistan Nuclear Tests and U.S. Response". (Congressional Research Service. Library of Congress. 1998).pp.23-24.

a marginal impact on India it had brought Pakistan to the brink of default in its international debt.<sup>33</sup>

In this move which mostly favours Pakistan's bail out from economic collapse, India gains too. This fourth category sanction is one of the area which inflicts huge costs both on sanctioner and target countries-US India, and Pakistan which posses huge consumer market for the US companies.

By lifting the ban on US EXIM Bank loans and OPIC guarantees it seems, the US mollified its own business lobbies which have been complaining that they were simply losing out to France and other whose corresponding institutions imposed no curbs on India.

**V Opposition in accordance with Sec.701 of the International Financial Institutions Act, the extension of any loan or financial or technical assistance to the target country by any international financial institution (Sec.102(b) (2) (E)).**

**India:** This section would require the US Executive Director on the Boards of institutions like the World Bank, ADB, IMF and IFC to vote against all loans and assistance to India. This is serious and should not be underestimated. The effeciency of US action will, however, be contingent upon a number of factors.<sup>34</sup> The United

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<sup>33</sup> Swaminathan S. Anklesaria Aiyar. "US Move: Coup for Pak but India gains too". The New York Times. New York. 11 November, 1998. pp.14.

<sup>34</sup> *Sanctions: Indo - US Perspectives*. Asian Institute for Transport Development, New Delhi, 1998. p.37.

States, by itself, can not block loans, financial or technical assistance to any country from the world Bank, International Monetary Fund, Asian Development Bank, or Asian Development Fund. Such effects would require supporting "NO" votes from a consortium of countries with voting memberships in various banks.<sup>35</sup>

As a matter of historical record, this is not the first time that such an action has been taken. For a period of three years from late 1974 to 1977, the US had opposed all the 26 IDA loans to India as a requirement arising out of the Long amendment. The US Congress, as a punishment for the India's peaceful nuclear explosion (PNE) at Pokhran in 1974, has passed this amendment. But the US being alone in its opposition had no success. All the 26 credits were approved. As a consequence, the US congress repealed the amendment in 1977.<sup>36</sup>

Assistant Secretary of State Karl Inderfurth, in the May 13th hearings, stated that the "requirement to oppose loans and assistance in the international financial institution could potentially cost India billions of dollars in desperately needed financing for infrastructure and other projects". India was slated to be considered for around \$3.8 billion in World Bank loans in the near-term. In the week following India's tests, the world Bank postponed votes on \$800 million for India for energy projects and road improvement, and Japan announced it would withdraw its offer

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<sup>35</sup> Richard. P cronin and others. *"India-Pakistan Nuclear Tests and US Response"*. (Congressional Research Service. Library of Congress. 1998). p.24.

<sup>36</sup> *Sanctions: Indo-US Perspective*. Asian Institute for Transport Development. New Delhi. 1998. p.37.

to host a meeting scheduled for June 30th to discuss longer-term funding for India's projects. Subsequent days, the World Bank postponed two more loans for agricultural and health care projects, valued at \$206 million.<sup>37</sup>

Foreign assistance to India has averaged \$3.2 billion over the last six years. The traditional donors have been world Bank, Asian Development Bank Japan and Germany. In 1996-1997 the latest year for which data is available they accounted for more than 95% of the total foreign aid. The US does not contribute any significant amount. As such the sanctions by the US may not have any direct impact. However, US could influence other donors and also vote against request for loans from Bank and lending institutions like world Bank and Asian Development Bank. The total aid from these multilateral institution accounted to \$2.2 billion in 1996-1997. External Commercial Borrowing (ECB) has become an important source of funding corporate India's need since the early 1990s. The sanctions imposed by the US, Japan and Germany could possibly lead to reduced accessibility of funds and also push up the cost of borrowing. The latter in turn could deter corporates for going in for ECB's and diminish the importance of this source of funds.<sup>38</sup>

The World Bank reportedly deferred consideration of two more project loans to India totalling over \$200mm. The two projects \$130mm agriculture project and

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<sup>37</sup> Richard P. Cronin and others. *"India - Pakistan Nuclear Tests and US Response"*. (Congressional Research Services, Library of Congress, 1998). pp.24-25.

<sup>38</sup> Monthly Review of the Indian Economy. Economic Intelligence Service (EIS), Centre for Monitoring Indian Economy. New Delhi May, 1998, pp.214-215.

\$764 million health care project-which were to be discussed on 4th June by World Bank 1998 were put off indefinitely.<sup>39</sup>

The US regularly opposed loans to a number of countries and for various projects, in some cases as a matter of policy. For example, the US routinely votes against loans to Ethiopia. Such negative votes usually average 6-8 per year. However, the US has never been able to block any loan to any country in multilateral financial institutions such as IBRD, IFC, ADB, AFDB, etc. during all these years. The reason is that it has not been able to gather sufficient support to block any of these loans. And, by itself, it does not have sufficient voting strength in any of these institutions. As the annual reports of the (US) National Advisory Council on IMF and Financial Policies make it clear, "the US has sufficient shares to veto projects (only) in fund for special operations (FSO) of the Inter-American Development Bank.... In other MDBs, our opposition to specific project proposals would have to be accompanied by the opposition of other members before a project could be formally denied".<sup>40</sup>

In the World Bank, for example, US share is 17 percent. Therefore, to block any loan, the opposition needs to muster 50.1 percent of votes. To do so, the US has to have the support of other countries, many from the developing world. It is

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<sup>39</sup> Ibid., p.220.

<sup>40</sup> *Sanctions: Indo-US perspectives*, Asian Institute for Transport Development, New Delhi, 1998, pp.37-38.

unlikely that it will be able to do so, especially when countries such as UK, France etc. have expressed their opposition to any kind of sanctions. Therefore, the approach would be to defer loan applications from India till such time as the matter is resolved, as has been done on two other occasions since the imposition of sanctions. This, too, was the approach followed in the case of China.<sup>41</sup>

There is another important factor to be taken into account. Even if the US were able to mobilise the necessary support, it can block only fresh loans. It can not stop disbursements under loan agreements already approved. Such disbursements are not subject to board approval they are dependent solely on the fulfillment of contractual obligations on the part of the concerned country. Typically, in any year, more than 80 percent of India's withdrawals from these institutions are against loans approved two or more years earlier. Therefore, any stoppage of fresh loan approvals will begin to take effect with a lag of more than two years. It is, of course, quite possible that the US might begin to raise objections to withdrawals by India on technical grounds. However, that is a different matter and its effects would be dependent on the Government of India's ability to respond creatively to such technical objections.

It is instructive to study how such actions affected China after the Tiananmen square incident. After that episode, the IBRD and ADB did not consider any fresh

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<sup>41</sup> Ibid., p.38.

loan applications from China for more than a year. As a result, fresh commitments to China declined very sharply. However, this did not affect Chinese utilization of funds from these institutions. In fact, IBRD disbursements to China did not show any decline.

The same was the case with the Asian Development Bank. The US and its allies could not sustain their coalition any longer and their opposition collapsed in the face of a strong stand by China. It should be noted that India's unutilised loans are substantial. At the end of the March 1996, they stood at more than \$16 billion. They should provide sufficient cushion for any drop in fresh commitments.

In the immediate aftermath of sanction's imposition, it was thought that all loans would be denied. However, subsequent developments have indicated that the opposition would be confined only to non humanitarian projects but humanitarian projects would be approved. In fact, the World Bank has already approved loans in excess of \$1 billion since the application of sanctions.

Of late, the Indian government has been concentrating on pushing humanitarian projects at the MDB, rather from other types of projects. It is, therefore, quite likely that even in terms of approvals, the current year data may not show substantial drop from the earlier years.

During any financial year the withdrawals from MDBS on account of loans sanctioned during that year were in the region of Rs.500-700 crores. Therefore,

going by past experience one can assume that loss on account of opposition to forego loans would not exceed Rs. 600-750 crores.

**Pakistan**: Pakistan is currently in the middle of receiving a \$1.56 billion loan from the International Monetary Fund (IMF) for debt restructuring, of which \$1.1 billion is undisbursed but was allowed to go through.

The World Bank also stated it would not disrupt funds to its 41 projects in Pakistan to which it was already committed. The Asian Development Bank, Pakistan's largest donor, suspended consideration on \$450 million in new aid the week after Pakistan's tests, and stated that all new loans to both India and Pakistan would be suspended for the time being.

On July 21, 1998, the State Department hosted a background briefing, with Treasury Department Official participating, to discuss the US position vis-a-vis IMF loans to Pakistan. Speakers summarised Pakistan's longstanding economic woes and noted that "it was never the intention of our citizens or to precipitate economic collapse".<sup>42</sup>

Officials announced that the US, while required by law to oppose loans when brought to a final vote, would not oppose the negotiation of those loans. The negotiation to make available \$36 billion in IMF loans to Pakistan, which was not held as originally scheduled at the end of June because of the nuclear detonation,

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<sup>42</sup> Richard P. Cronin and others. "India - Pakistan Nuclear Tests and US Response". (Congressional Research Service. Library of Congress, 1998). p.25.

would now proceed. A Treasury Dept Official stated, "that there is a given light from our stand point for resumption of negotiations on such programmes in the IMF. However, the US will do what is legally required to do by the Glenn Amendment and that is to oppose these loans with its vote in the IMF. We do not have veto power in the IMF. Other stockholders are able to support these loans and get them through". Officials further stated that there was no change in US policy with regards to the other international financial institutions and transactions with either India or Pakistan.<sup>43</sup>

Foreign aid, which are crucial to Pakistan economy are expected to be hit badly. Japan extended about 60 billion yen (\$431 million) in soft loans and about 6 billion yen (\$43.1 million) in aid grants to Pakistan in the year ended 31 March 1997. The US - sanctions may jeopardize \$1.6 billion from the IMF and \$1.8 billion by the ADB. The total loss during the fiscal year beginning July 1998 was reportedly put at \$4.5 billion in the form of aid, loans and foreign investments due to the sanctions. Pakistan's immediate major problem is honoring its foreign debt.

Foreign investments into Pakistan, which were rising, are expected to slow down after the nuclear tests on 28 May 1998. Investments in the power sector, where US and Japan are major players, are expected to be hit the hardest. According to ADB report, during July 1997 - Feb 1998 foreign investment totalled

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<sup>43</sup> Ibid.

\$ 612 million (\$414 million as FDI and \$198 million as portfolio investment). The US being is biggest investor with \$253 million followed by Hongkong (\$171 million).<sup>44</sup>

When it is analysed qualitatively the impact on this particular area- "financial assistance cut off from International Financial Institution"- obviously the cost is on the target countries, India and Pakistan, only. This financial aid cut off to India and Pakistan could affect their various projects, industrial development, infrastructure development like education, health care ultimately.

No doubt, clearly it would affect Indian economic growth but Pakistan will be the clear major victim in the longer run. Eventhough, President Clinton has authorised US officials to approve international banks loans and a debt restructuring agreement with the IMF in the case of Pakistan the aid wich has already been blocked by IMF World Bank, costs much on Pakistan.

**VI Prohibition on any US bank from making any loan or providing any credit to the government of the target country, except for the purpose of purchasing food or other agricultural commodities (sec. 101 (b) (2) (D)).**

**India:** The Indian Government has not taken any loan from any US commercial bank or, for that matter, from the controversial bank of any other country.

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<sup>44</sup> Monthly Review of the Indian Economy. Economic Intelligence Services (EIS). Centre for Monitoring Indian Economy. May 1998. p.233-234.

Therefore, this sanction shows not to have any direct impact.

While it is a fact that the denial of US government bank loans to the Indian government will not have any direct effect, the US has some degree of freedom in making things difficult for India. The enforcement of economic and trade sanctions against target countries is administered by the Office of Foreign Assistance Control (OFAC) of the US Treasury Department.

It issues foreign assets control regulation for:

- (i) The financial community
- (ii) The securities industry
- (iii) The insurance industry
- (iv) The exporters and importers, and
- (v) The tourism industry.

The current US sanctions against India do not have direct impact on the operation of the last three groups. But they may affect the first two which requires some careful and detailed analysis because this is the first hand the U.S. has imposed sanctions under the Glenn amendment.

Unlike the other sanctions currently being maintained by the US, there are no trade sanctions against India-nor there any against investments in India. Tourism is not prohibited and there are no US insurance companies operating in India.

Since the financial sanctions are against the Indian Government, they can have impact either directly via loans or indirectly through their effects on the holdings of government securities by the entities subject to the jurisdiction of the U.S. Mr. David Lipton, Under Secretary of the Treasury said "The law requires that banks cease to make loans and credits to the government of India and Pakistan. The law does not cover banking operations with the private sectors of those countries, and so banks can continue to operate. In the case of American companies investment in India and Pakistan, he said, "they will be allowed to invest".

One of the issues concerned with banking operations is the Indian governments securities held by the US banks operating in India as part of their SLR obligations. While there is no precedent to analyse, since all US sanctions so far have been against countries which do not permit foreign bank operations with in their territory, it is most likely that these will not be affected by the sanctions.<sup>45</sup>

**Pakistan**: The government of Pakistan borrows on average, \$1.5 billion to \$2 million annually from the commercial banking sector of which \$700 million to \$1 billion is derived from US commercial lenders. In the latter half of 1997, Pakistan commercially borrowed \$ 580 million, not necessarily solely from US lenders, to finance oil imports alone. Future loans were to be terminated. The state Dept has, on numerous occasions, stated that the administration would issue Executive Orders

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<sup>45</sup> *Sanctions: Indo-US perspectives*, Asian Institute for Transport Development, New Delhi, 1998, pp.39-42.

to prohibit US banks from extending loans or credit to the governments of India and Pakistan.

**VII Prohibition on export "of specific goods and technology" excluding food, agricultural commodities or items related to congressional oversight of intelligence activity, in accordance with section 6 of the Export Administration Act of 1979 (50 USC APP 2405) relating to foreign policy controls. (sec.102 (b) (2) (G)).**

For India the US is particularly important from the point of view of import of technologies. During the four decades since independence India has had many successful collaborations and technology transfer deals with the US helping the process of industrialization. The US technological and financial investments have shown an impressive growth in the years followed the liberalisation in India.

The Non-Proliferation Prevention Act (NPPA) defines "goods and technologies" as "nuclear materials and equipment and sensitive nuclear technology.... and all technical assistance that requires authorisation under Sec.578 the Atomic Energy Act of Q 54".

India is already subject to denials of such goods and technology as a result of its refusal to sign NPT. In fact, as a result of this refusal, India is subject to an ever stricter denial regime, including the MTCR, NSG, Zangger Committee etc. Therefore, this item will not put any additional burden on India.

India and US signed an MOU in 1984 on export of technology and goods. Nevertheless, the US has continued to place obstacles in the way of Indian access to US technologies and goods. In recent years, the value of import certificates issued by the Indian government under this MOU has fallen to levels much below \$600 million. Moreover, many of these items are now freely available from non-US sources, for example France. In addition, advances in technology have made such control regimes quite ineffective. A recent US study pointed out that many Indian computer manufacturers offer machines of much stronger capabilities than those allowed under export control regimes. The Indian parallel processing super computer technology is quite advanced, offering machines of quite high speeds for in excess of the 2000 MTOPs limit placed by the Bureau of Export Administration (BXA) on computer export to India.

A BXA note has clarified certain matters. It has announced that it will immediately begin to process all pending licenses. As per the guidelines, no license will be issued for dual-use items controlled for nuclear or missile non-proliferation reason. The BXA has also published the list of entities involved in such activities. All export licenses are denied to these entities.

On the other hand, the BXA will continue to give favorable consideration on a case-by-case basis to other dual-use exports to the other government and non-government Indian entities.<sup>46</sup>

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<sup>46</sup> Official Text, USIS, New Delhi, "US Sanctions on Export of Dual-use Goods to India, Pakistan", 25 June, 1998, pp.1-2.

In 1997-98 software exports have risen by about 68% to US \$1749 million and domestic software that is essential for the growth of software exports, grew by over 33 percent to Rs.3470 crore.

Where the sanctions will really hurt is in the ability of our defence departments to acquire computer systems and software required for a variety of needs, not all of them necessarily nuclear. Institutes like Bhabha Atomic Research Centre and ISRO will now find it increasingly difficult source for sophisticated hardware and software. But on the flip side this will end up hurting operation of many MNC's in the country. But, India's C-DAC's super computer PARAM 10000 with its ability to perform at 100 Gigaflops will be a major relief in this case.<sup>47</sup>

As a result of sanctions, fairly high share of license application will now be denied. So the impact of sanction on digital computers can be taken to be around \$10 million annually. What is likely to affect major programmes like the LCA is the non availability of critical parts and components, which are required in small volumes for which the US has been the chief source.<sup>48</sup>

As the reports points out, the precise economic impact on India of export sanctions on dual - use goods and technologies is difficult to determine. In the last

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<sup>47</sup> Data Quest, 15 June, 1998.

<sup>48</sup> R. Ramachandran, "Sanctions : The Bark and the Bite" Frontline, Chennai, 21 May , 1999, p.114.

three years, the total values of licenses for controlled goods of sanctioned item to India were \$43 million, \$149 million and \$150 million. The impact of new sanctions would have been reflected in the 1997-1998 figures and will be seen in 1998-1999 figures. However, since the sanctions will affect trade in items that were till now exportable without a license (particularly EAR Goods) as well as those requiring licenses, the actual impact of the sanctions will be much higher than the \$150 million region.<sup>49</sup>

The Department of Commerce, after it released the June 3rd interim guidance on exports, estimated that, total US exports to India and Pakistan in 1997 amounted to \$3.6 billion, of which only \$7 million would have been automatically denied export license in the wake of sanctions, and another \$94.7 million in export license would be remained with a presumption of denial.<sup>50</sup>

In this case of sanctions no doubt there is a loss for US also. Because India can find alternative sources for its computer requirements. But, still in some areas like technological development, the sanction will bite India too. Pakistan also will be affected much more in terms of technological development.

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<sup>49</sup> Ibid., p.111.

<sup>50</sup> Richard P.Cronin and others, *"India-Pakistan Nuclear Tests and US Response."* (Congressional Research Service, Library of Congress, 1998), p.27.

### **Indirect impact on India**

Beyond these direct impact of sanction on India, there are definite indirect impact also. The nuclear tests and the resultant sanctions and non-sanctions based apathy of the international community towards India and the ever uncertain political set up altogether make the balance of payments of India in 1998-99 significantly uncertain.

The USA government has estimated that the impact of the sanctions against India would amount to \$ 5 billion which is much lower than the earlier estimation of \$ 20 billion. If the current uncertainty even of the estimate of \$5 billion and the very hesitant if not apologetic announcement of the sanctions are any indications, then it is quite likely that the direct impact of the sanctions would be even lower. However this does not reduce the apathy of the international community towards India and Pakistan because of their contribution to escalate tension. Thus, the balance of payments would be adversely impacted by more than the direct impact of the sanctions.<sup>51</sup>

The real fallout for Indian companies and for Indians in MNCs is in the change of perception negatively because of concertancy out of sanctions.

The nuclear test in May 1998 followed by lowering of the country's outlook from stable to negative and the double downgrade of India's sovereign rating by

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<sup>51</sup> Monthly Review of the Indian Economy. Economic Intelligence Service (EIS). centre for Monitoring Indian Economy. June 1998. p.186.

Moody's were expected to increase the cost of borrowing substantively. A number of corporates either scheduled or postponed their foreign borrowing in view of the high cost.<sup>52</sup>

Higher inflation, Steeper interest rates, a fall in the value of the rupee and a decline in stock indices are among some of the negative fallouts of the imposition of US sanctions on India according to a study conducted by a crisis Research and Information Service Ltd.<sup>53</sup>

**Tourism**: The nuclear tests have apparently had an impact upon Indian tourism industry. In May 1998 foreign tourist arrivals recorded a sharp decline of 21 percent over and above the nine recent decline in the previous month. Earnings also declined by four percent during the period over an increase of six percent in May 1997. The decline in earnings mainly due to the fall in arrivals since per tourist expenditure had increased to \$11541 from \$1,265 in May 1997.<sup>54</sup>

Several travel groups from Europe had also reportedly cancelled their trips to India, fearing unhealthy levels of radiation in Rajasthan. There were some misleading media reports in Germany and Australia that the Pokhran blast had released radiation into the atmosphere.<sup>55</sup>

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<sup>52</sup> Ibid., p.190.

<sup>53</sup> M.S. Ahluwalia, "*Background Note on Indo-US Commercial Relations*", Indo-American chamber of Commerce North India Council, New Delhi, 23 July, 1998, p.5.

<sup>54</sup> Monthly Review of the Indian Economy, Economic Intelligence Service (EIS), Centre for Monitoring Indian Economy, New Delhi, June 1998, p.188.

<sup>55</sup> Ibid., May 1998, p.217.

Although politically the US and India have traversed a very controversial path in the entire post independence era, but even then the growth of economic co-operation has gained momentum through out the past decades. It has many reasons to reach from strength to strength. But at this moment India faced imposition of sanctions which has tremendously affected bilateral trade relation between India and the US.

Scaling the impact of sanctions through the perception of both the target country and the sanctioner, with the data released by the country concerned, certainly always causes difficulties in measuring exact impact as there arises sharp discrepancy due to data manipulation in favour of the country concerned. And, moreover because of the lack of access to the systematised data on the cost of economic and technological sanctions from all three governments - the USA, India and Pakistan - studying the precise impact of sanction on India and Pakistan appears to be too early to judge.

Beyond all these facts one thing is very clear, that is this US sanctions have an adverse impact on both India and Pakistan and on US too. Being the fact the US has stronger economy, it may appear that the US is unaffected. But now the US maintains economic sanctions against literally dozens of countries. These sanctions are believed to hurt US business worth as much as \$20 billion shares which constitutes a considerable share in the US economy every year.

The US Secretary of State Medeleine Albright has expressed worry that the sanctions imposed on India and Pakistan will not only affect the two countries but also US business will stand to lose even as senator, John Glenn, author of sanctions law is having second thought on the unilateral action bearing his name.<sup>56</sup>

Surely, all three countries India, Pakistan and the US suffer economic costs out of the current sanctions. Therefore, all the above facts of the economic costs on India, Pakistan and the US partially prove the first hypothesis that with the global environment based more on interdependence in terms of economy and technology under current globalization phase, the sanctions adversely affect the target countries and imposer too.

But the question, "will this punishment - cost on economic and technological development - threatens or influence enough India and Pakistan's policy making towards the US non proliferation objectives," depends upon so many other variants. Whether this costs is weighed down or not (considered less importance or not) by the target countries, India and Pakistan, when the cost is compared to their other national interests? is really a crucial question to be answered before evaluating the role of sanctions in making India and Pakistan to comply with non-proliferation objectives of the US.

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<sup>56</sup> The Economic Times, New Delhi, 16 June, 1998. p.12.

**CHAPTER III**

**NUCLEAR DIPLOMACY OF SANCTIONS:  
OUTCOME**

## **CHAPTER III**

### **NUCLEAR DIPLOMACY OF SANCTIONS: OUTCOME**

Usually United States policy makers do not always state in the sanctions law, the goals or objectives they hope to accomplish through the imposition of sanctions. Section 102 (b) of the Arms Export Control Act also does not state a standard to be met by India and Pakistan to have the sanctions lifted. It is left to the U.S. administration to set the goals to be achieved by imposing sanctions of any type. After India and Pakistan's May 1998 nuclear tests, U.S. Assistant Secretary of State Karl Inderfurth pointed out, the goals of the US government, before the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs on June 3, 1998. The U.S. Government, he said, "Will be looking for both parties to take such steps as:

- (i) Sign and ratify CTBT (comprehensive Test Ban Treaty) without delay or conditions.
- (ii) Halt production of fissile material and participate constructively in FMCT negotiations.
- (iii) Agree not to deploy or test missiles system.
- (iv) Maintain existing restraints, against sharing nuclear and missile technology or equipment with others.
- (v) Agree upon a framework to reduce bilateral tensions including on Kashmir, and

- (vi) Accept IAEA (International Atomic Energy Agency) safeguards on all nuclear facilities"<sup>1</sup>

Additionally, Assistant Secretary of State said: "we are encouraging the immediate resumption of direct dialogue between India and Pakistan and are working to share up the International non-proliferation regime....we will urge signing and ratification of CTBT by India and Pakistan under the terms just mentioned...."<sup>2</sup>

Hence, it is evident that major and primary objective of the US had been to obtain India and Pakistan to sign and ratify CTBT. And simultaneously the US attempted to achieve other five stated goals also through the process of nuclear diplomacy of sanctions (Diplomacy of sanctions in achieving nuclear non-proliferation policy).

Evidently the question that need to be addressed relates to the process of nuclear diplomacy of sanction: How far the US has influenced decision making of India and Pakistan towards attaining its stated goals including the primary goal of making India and Pakistan to sign and ratify the CTBT, as the deadline (September 1999) is fast approaching?

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<sup>1</sup> Official Text. "Inderferth Details US Policy toward India, Pakistan at Senate". (USIS, New Delhi), 4 June, 1998, p.3.

<sup>2</sup> Ibid., pp.3-4.

## **US-INDIA DIPLOMACY**

### **Comprehensive Test Ban Treaty**

In the 90s Bill Clinton's administration became the champion of nuclear non-proliferation efforts - CTBT, FMCT, (Fissile Material Cut - off Treaty) and other disarmament issues. Countries like India, Israel and Pakistan clearly emerged as the foremost targets of non-proliferation efforts. After the India and Pakistan's nuclear tests, Clinton's non-proliferation agenda and his plans have witnessed a set back and the issue has become significantly complicated. With the support of sanctions, US initiated diplomatic efforts to achieve its non-proliferation goals, particularly making India and Pakistan to sign and ratify the CTBT.

From July 1998, Deputy Secretary of State, Strobe Talbott, led a US Team of negotiators to New Delhi and Islamabad for closed discussions on a range of issues, which most likely included nuclear proliferation, arms control, the CTBT, the FMCT, Confidence Building Measures (CBMs), Kashmir issues and sanctions. But they did not wish premature disclosure of details of the talks to stymie future progress.

The first round of talks in June 98, were predictably characterised by both India and the American sides stating their official position, India elaborating on the security rationale for its nuclear test and the US insisting India signing NPT and

CTBT without any condition and with no further delay.<sup>3</sup> So in the first round of talks, an agenda for further strategic dialogue was set up by India and the U.S.

The second round of Indo-US dialogue took place in Frankfurt, Germany on July 9th and 10th 1998. Prior to the second round of talks it was announced from the Indian side that the Government was willing to discuss positively the CTBT accession issue and that India would not insist on CTBT being amended to include some of its concerns like committing all nuclear weapons states for a time bound reduction and eventual elimination of nuclear weapons. In other words, India was signalling that she was prepared to remove the linkage between CTBT and nuclear disarmament as a concession. It could be attributed to success of sanction's pressures. In the absence of sanctions pressure removal of linkage between CTBT and universal disarmament by India would have not been possible, assumably. This position of Indian Government drew criticism from some quarters as surrendering to the US pressures.

Reportedly, Mr. Jaswant Singh, External Affairs Minister of India and Mr. Talbott discussed for two days India's security situation, India's perception of threat from two nuclear neighbors who are believed to be secret allies- China and Pakistan- and how they impinge on India's strategic and defence policies. It seems Mr. Talbott was personally getting convinced of the security rationale behind India going nuclear overtly, but was constrained to push forward the Clinton administration agenda for

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P.S. Jayaram. *"Indo-US Strategic Dialogue," World Focus*. New Delhi, February 1999, p.11.

non-proliferation and successful completion of the CTBT process for realising the ultimate objective of nuclear disarmament.

The Indian side insisted on the removal the economic sanctions by the P-5 and the G-8 countries and the lifting of ban on transfer of dual use technologies as a quid pro-quo for India considering to accede to the CTBT. Though the talks were held in highly cordial and malice - free atmosphere, apparently Mr. Singh and Talbott could possibly not arrive at any specific decision regarding the requirements of both sides. The US administration was apparently not agreeable to any linkage between India's signing of CTBT and the relaxations of controls on dual use technology. New Delhi's compliance, it said, should be without any 'pre-conditions'<sup>4</sup>.

On December 15, 1998 Indian Prime Minister Vajpayee made a statement in the Rajya Sabha during a debate on foreign policy coincidentally on the same day the second round of talks ended. He said that although India was ready for talks on CTBT, it would not sign the treaty unconditionally under pressure. Indeed, Indian Government was very sensitive to convey the impression world wide that India's decision making on foreign policy issues could not be dictated or pressurised by any one. The parliamentary debate also noticed strong statement being issued by the Congress and Left parties cautioning the Vajpayee Government against any compromises on national security. They virtually chided the government for hinting

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<sup>4</sup> Ibid., p.12.

at signing the CTBT without taking opposition parties into confidence.

Against this background of strong domestic condemnations, the third round of talks between Mr. Singh and Mr. Talbott were held on 21st July, 1998 in New Delhi. The US appreciated that the Indian government needed time to elicit a national consensus.

Indian Prime Minister Mr. Vajpayee while speaking about Indian nuclear tests in his address to the 53rd UN General Assembly said: "These tests do not signal a dilution of India's commitments to the pursuit of global nuclear disarmament. Accordingly, after concluding this limited testing programme, India announced a voluntary moratorium on further underground nuclear test explosions. We conveyed our willingness to move towards a de jure formalisation of this obligation. In announcing a moratorium, India has already accepted the basic obligation of the CTBT. In 1996, India could not have accepted the obligations as such a restraint would have eroded our capability and compromised our national security".<sup>5</sup>

Additionally Prime Minister Vajpayee in his address to the 53rd UN General Assembly in New York said, "We are prepared to bring these discussions for a successful conclusion, so that the entry into force of the CTBT is not delayed beyond Sept 1999".<sup>6</sup>

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<sup>5</sup> Address of the P.M. of India to the 53rd UN General Assembly. *Strategic Digest*, Nov.98, p.1801.

<sup>6</sup> Ibid.

The US spokesman have been going to town praising India's decision to sign the CTBT this year notwithstanding the agreement not to reveal details of ongoing negotiations. The more US propaganda succeeded about the India's imminent move to sign CTBT, the more intense was the pressure brought to bear on the Vajpayee Government, with the opposition flaying it knuckling under the US pressures.

On February 24, 1999, Mr. Jaswant Singh announced in parliament that India had not agreed to sign the CTBT nor would it permit another country to decide its minimum nuclear deterrence. Singh's most forceful rebuttal was his statement that the government would not even respond to claims reportedly made by some US officials that India was close to signing the CTBT.<sup>7</sup>

Talbott made the point that the US can not concede, even by implication, that India and Pakistan have by their tests established themselves as nuclear weapon states.<sup>8</sup> Jaswant Singh's response to that was straight forward presentation: "Facts cannot be disinvented. India is a nuclear weapons state". The external affairs Minister has made it clear during the dialogue with the US that matters relating to defence postures are sovereign functions, and therefore, not negotiable. Jaswant Singh asserted that India "will not accept any aspect that attempts to explain what its minimum nuclear deterrent ought to be" either through "suggestions or

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The Hindu, 25 Feb.1999, p.1. All references to the "The Hindu" in this dissertation are to the New Delhi edition of that Newspaper.

Strobe Talbott, "Dealing with the Bomb in South Asia". *Foreign Affairs*, New York, March/April 1999, p.119.

intrusive measures or in any other aspect". He said "India shall define its own requirements and parameters of nuclear deterrent on the basis of our assessment of what our security requirements and considerations are. This is sovereign functions."<sup>9</sup>

Therefore, it is understandable here that these official statements of India are increasingly, outlining the trend towards proving the hypothesis "Economic sanctions may not be effective in disputes especially that affect the target country's security."

It is against this background that the eighth round of Indo-US strategic dialogue took place in New Delhi for three days in January this year. The eighth round of talk was significant because a conscious decision was taken by both the sides to broaden the scope of Indo-US strategic dialogue to a level where something should be done to improve the bilateral relations between the world's two richest and largest democracies. It is also useful to remember that the talks between Mr. Talbott and Mr. Singh were preceded by a telephonic conversation between the American President and the Indian Prime Minister. Indeed such action highlight the importance the two sides attached to the strategic dialogue.

The forgone enumerated intensive diplomacy between India and the US, reveal that both parties are sustaining and holding on respective positions, without making any concrete breakthrough.

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<sup>9</sup> "India Has Not Agreed to Sign CTBT", *World Focus*, February 94, p.22.

### **FMCT (Fissile Material Cut-off Treaty)**

On August 11, 1998, the conference on disarmament (CD) in Geneva finally agreed - after years of impasse - to convene an ad hoc committee to negotiate a ban on the production of new fissile material, mainly plutonium and highly enriched uranium (HEU) generally used in the production of nuclear weapons. Paradoxically, post Pokhran-II India has overcome its initial hesitancy and agreed to participate in good faith in the negotiations for the early conclusion of a universal, non-discriminatory and internationally and effectively verifiable treaty banning the further production of fissile materials for nuclear weapons and other nuclear explosive devices. This has been described by the Geneva - based diplomats as a significant move in India's contemporary nuclear diplomacy. International pressure and sanctions might have been additional factors in India's decision to participate in the Geneva negotiations on the FMCT. Post - Chagai, Pakistan too has joined the negotiations. Indian Ambassador at the Geneva negotiations, Savitri Kunadi, said that India had always taken a pro-active position on the FMCT.<sup>10</sup>

The fourth and fifth rounds of Indo-US talks were held against this background of the Geneva negotiations on FMCT. India's participation in Geneva celebrations, along with Pakistan and Government of India's assurances that it would participate constructively in negotiations for the successful conclusion of a multilateral verifiable

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<sup>10</sup> P.S. Jayaram. "India and FMCT". *Mainstream*, New Delhi, Vol.37, No.8, February 1999, pp.13-14.

FMCT which also formed part of Singh - Talbott dialogue brought some cheer to the US side that the strategic dialogue was progressing well, albeit slowly. In its talks with India, the US has secured an arrangement, "US and Indian delegations at the Conference on Disarmament at Geneva will endeavor to consult frequently on the status of negotiations on the FMCT and the possibility of other multilateral initiatives, reads the USA - India joint statement issued at the end of their talks in New Delhi.

In this regard on April 1, 1998, India's Foreign Minister declared that India would not support an immediate moratorium on fissile material production even if legitimate nuclear powers and Pakistan agreed to the proposition. He said "it is not possible for India to agree to such a suggestion at this stage".<sup>11</sup>

### **Strategic Restraint and Export Control**

During the sixth and seventh round of parleys Mr. Singh and Mr. Talbott debated not only CTBT issue, but also other important issues like India's defence posture and the need for maintaining adherence to export control regimes. The issues being ticklish involving sensitive questions of sovereignty etc., the talks did not make any serious headway, though there were enough indications to the effect that US side was able to understand the practical problems faced by India in giving any definitive commitment on question of missile production and deployment.

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<sup>11</sup> The Hindu, New Delhi, 2 April 1999, p.11.

The US Ambassador in India, Richard Celeste said, that a satisfactory outcome to the conflicts that were unleashed by the competitive nuclear tests on the subcontinent would depend upon both sides agreeing on the size of the deterrent force that they would deploy. Transparency would also be required on the delivery systems being used and the locations of devices in either sides armouring, said the Ambassador. Of course, the US conceived of a supervisory functions for itself in its self proclaimed role as global umpire in nuclear matters. Celeste's proposals were quickly rejected by the Indian Foreign Office and Defence Minister George Fernandes saying the points Celeste raised impinged directly on the national security concerns of a sovereign state. India was willing to offer a treaty committing both sides to a "no-first use" of nuclear weapons posture. After having made a unilateral pledge to this effect, India thought that a better ambience of mutual security could be created by drawing Pakistan also into a similar commitment. Expectedly, Pakistan saw this as an effort to undo a situation of nuclear parity and tilt the strategic balance in favour of India's superior conventional military forces. The Pakistani alternative of a comprehensive treaty of non-aggression was rejected by India on account of its linkage to the Kashmir question. Lowering its sights from a "no-first use treaty", India then suggested a mechanism to prevent an "accidental or unauthorized nuclear launch". Pakistan also, for its part, came up with a series of more ambitious proposals to defuse nuclear hostility. These included a mutual ban on explosive testing; a commitment by both sides to forswear the ballistic missile

defence option; and the acceptance of a minimum deterrent force of transparent dimensions. None of these proposals gained acceptance from India, which continues to insist that the issues they raise touch upon national security interest that transcend the neighbourhood context.<sup>12</sup>

Meanwhile, exactly eleven months after the Pokhran nuclear tests, on April 11, 1999 India test-fired the extended range "Agni-II" missile that can cover a range of over 2,000 km. Highly placed sources that said India's missile programme is not Pakistan centric and India has abided by the understanding reached with Pakistan in "Lahore Declaration" that reads in spirit "to provide each other with advance notifications in respect of ballistic missile tests...." also.<sup>13</sup>

An expert level meeting of officials was held in New Delhi in November 1998 and India assured the US side that as a responsible nuclear weapons state it would not only behave responsibly but also take step to make stringent laws regarding export controls. Both sides described the talks as helpful and saw great prospects for continuing cooperations between the two countries in that area.

And, regarding "export controls" of dual-use technology Indian Prime Minister Vajpayee has said in his address to the 53rd UN General Assembly, "As a responsible state committed to non-proliferation, India has undertaken that it shall not

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<sup>12</sup> Sukumar Muralidharan. *"On to the Next Round"*. Frontline. Chennai. 12 February 1999. p.98.

<sup>13</sup> The Hindu. New Delhi. 12 April 1999. p.1.

transfer these weapons related know-how to other countries. We have an effective system of export controls and shall make more stringent where necessary, including by expanding control list of equipment and technology to make them contemporary and effective in the context of a nuclear India. At the same time, as a developing country, we are conscious that nuclear technology has a number of peaceful application and we shall continue to cooperate actively with other countries in this regard, in keeping international responsibilities".<sup>14</sup>

## **US-PAKISTAN DIPLOMACY**

### **Comprehensive Test Ban Treaty**

Regarding signing of the CTBT issue Pakistan has delinked its stand on the CTBT, the NPT, the FMCT etc., from India's for the first time in its foreign policy decision making regarding national security issues. In principle, Pakistan has openly committed itself to accede to the CTBT regardless of the India's initiative, which provoked the critics of Nawaz Sharif Government to say that the Government lost its bargaining power by agreeing to sign CTBT in principle.

Pakistan as good as committed to signing the CTBT by September, 1999 when the treaty comes up for final ratification. But highly placed sources of Pakistan Government said the signing of CTBT would be contingent on important conditions:

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<sup>14</sup> Address of the Prime Minister of India to the 53rd UN General Assembly. *Strategic Digest*, New Delhi, November 1998. p.1802.

(i) Islamabad will not sign unilaterally , (ii) it will reserve the right to walkout of the treaty if India violates it and conducts a nuclear test, and (iii) Pakistan's nuclear programme will remain uncompromised.<sup>15</sup>

After the partial lifting of sanctions on December 2, 1998 the clearest message of the US was that the signing of CTBT should be quick and without delay after the IMF bailout programme put back on the track.

Prime Minister Nawaz Sharif stated in the course of his September address at the UN that Pakistan voluntarily announced a moratorium on further testing soon after the May, 1998 nuclear test. From a technical point of view, further testing would be neither an essential requirement for greater reliability nor affordable nor even advisable in diplomatic terms.<sup>16</sup> Pakistan's ret'd. brigadier says "as compared to India Pakistan seems more vulnerable to international (the US) pressure. Some analysts in Pakistan claim that whereas it is to be admitted that Pakistan is relatively more vulnerable to outside pressures - for its many inherent disadvantages vis-a-vis India - it has, quite steadfastly and successfully, refused to succumb to them."<sup>17</sup>

Immediately after meeting with President Clinton in Washington in December

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<sup>15</sup> "Islamabad Makes up Mind to Sign Test Ban Treaty". POT (Public Opinion Trends, Analysis and News Service, Pakistan Series), New Delhi, 3 October 1998, p.3057. All references to the "POT" (Public Opinion Trends, Analysis and News Service) in this chapter are to the Pakistan series.

<sup>16</sup> "Comments: India's Super Power Claim A Dream", POT, New Delhi, January 1999, pp.2-3.

<sup>17</sup> A.R. Siddiqi, *India's Super Power Dream May well end up in a nightmare*, "Nation", Islamabad, 9 December 1998, p.12.

1998, Mr. Nawaz Sharif said Kashmir issue had not been presented to Washington as a precondition to signing the CTBT. This decision of Pakistan Prime Minister is criticised as a blunder move in diplomacy.<sup>18</sup> But later on January 7, 1999, Prime Minister Nawaz Sharif categorically stated that Pakistan will review its policy if India carries out any more nuclear tests before acceding to the CTBT, reports 'Pakistan Observer' (8.9.99). This clearly brings out the point that Pakistan's foreign policy decision making as to national security issue is unable to delink from India's.

On December 28, Foreign Minister Sartaj Aziz said that Islamabad would sign the CTBT only in an atmosphere free of coercion and pressures. Pakistan has in principle accepted to sign CTBT for partially lifting of sanction by the US.

According to the report of Pakistani Newspaper "Nation" (5.3.1999), "Pakistan is likely to sign CTBT before September 1999, but may hold on longer on treaty ratification, highly placed defence sources confirmed on 4 February 1999". The sources further added, "We have been weighing this option for some time and are still looking at it from many angles. It is our view that our national security interest are not in the least affected by signing the CTBT. The American pressure has been on us but when we meet the September deadline it will be independent of this factor."<sup>19</sup>

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<sup>18</sup> "Comments: Myth of Mediation on Kashmir", POT, New Delhi, 8 January 1999, p.1.

<sup>19</sup> "Pakistan Likely to Sign CTBT Before September", POT, New Delhi, 18 February 1999, pp.597-598.

And regarding signing of NPT, which will be definitely taken up by the US in the future, Foreign Minister Sartaj Aziz said on Feb 23, that Pakistan would not sign the NPT in its present form. He said, "if they (P-5) amend the treaty or include us as a nuclear state, only then can we sign the NPT. However Signing the CTBT is being considered in a conducive atmosphere".<sup>20</sup>

But, it seems Pakistan will demand lifting of sanctions fully, before making a concrete commitment in signing of the CTBT. Foreign Minister Sartaj Aziz has made it clear that Pakistan will neither sign CTBT under coercion nor will it accept unilateral moratorium on the production of fissile material before the conclusion of the Fissile Material Cut-off Treaty, (FMCT). Answering a host of supplementary questions in the senate, he said Pakistan will sign the CTBT only if all sanctions, including embargo on military sales, are lifted. He said, Pakistan has emphasised that it has no intention to export fissile material and other sensitive technology. He categorically stated that Pakistan will not compromise on its national security but having achieved a nuclear deterrent, it will act as a responsible nuclear state.<sup>21</sup>

Therefore, all these official statements of Pakistan government clearly show that even though there is much economic pressure, it will not compromise national security for that matter for US sanctions.

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<sup>20</sup> "Pakistan to Sign NPT As Nuclear Power, Says Sartaj", POT, New Delhi, 11 March 1999, p.858.

<sup>21</sup> "Sartaj Aziz Reiterates No CTBT Signing Under Coercion", POT, New Delhi, 13 February 1999 pp.521-522.

Even for carrying forward US - Pakistan bilateral dialogue, Prime Minister Nawaz Sharif put condition to President Clinton during his official visit to Washington, that political and economic pressure exerted on Pakistan by G-7 countries should be eased. "Unless that was done Pakistan would not be amenable to even start a dialogue on these issues under pressure. Moreover, any progress towards the point raised by the US president would entirely depend on Pakistan's assessments of its national security imperatives and would be based on a symmetry of progress made in India on these matters."<sup>22</sup>

#### **FMCT (Fissile Material Cut-off Treat)**

The crucial divergence in the Pakistan and US perceptions converging nuclear restraints relates to the issue of moratorium on the production of fissile material which constitutes the essential building block of nuclear weapons. Pakistan, like India, has already agreed to join talks at the conference on Disarmament in Geneva on a Fissile Materials Cut-off Treaty (FMCT) so that the long stalled discussions on the subject may move forward. Highly placed sources of Pakistan Government said that the USA wanted Pakistan to strengthen Washington hand against India which is turning out to be a much harder nut to crack. US official wanted Pakistan to declare even a conditional moratorium, saying that if India does not respond with a similar

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<sup>22</sup> "Pakistan-US Talks to Focus on Lifting of Arms Curbs", POT, New Delhi, Feb 5, 1999, pp. 543-544.

offer Pakistan could always revert to its fissile material production programme.<sup>23</sup>

Pakistan said on December 26, 1998, that it could not agree to any demand for a moratorium on the production of fissile material before the conclusion of the FMCT.<sup>24</sup> Pakistan Foreign Minister Sartaj Aziz, said, in CD held at Geneva on August 11, 1998 that a Fissile Material Cur-off Treaty aimed at only preventing further proliferation of nuclear weapons would be discriminatory and thus ineffective. "Pakistan's other major concern is the unequal stock pile of fissile material existing at the global, regional and sub-regional levels", Pakistan strongly believes that by cutting of the future production of fissile material, without taking into account the existing stockpiles at the global and regional levels, they will only freeze nuclear imbalances, creating more security problems. When the substantive negotiations start in Geneva next year, Pakistan will pursue its position which is said by a majority of non-aligned countries representation in the conference on disarmament", he said in Pakistan's House.<sup>25</sup>

During the eighth round of talk between the US and Pakistan in between Feb 1-2, 1999, Pakistan reiterated its position on the CTBT and FMCT as enunciated by Mr. Nawaz Sharif in his address to the UN General Assembly. In the talks Pakistan

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<sup>23</sup> "Clear US signal to Pakistan to sign CTBT. POT. New Delhi, 16 December 1999. p.4033.

<sup>24</sup> "Dawn". Islamabad. 27 December 1998. p.1.

<sup>25</sup> "Sartaj: No Moratorium Ahead of FMCT will be Accepted". POT. New Delhi, 8 January 1999. p.81.

and the USA agreed to remain in close touch during the negotiations of the FMCT in the Conference on Disarmament (CD). It was during one of these eight rounds of US-Pakistan dialogue that Pakistan agreed to support the initiatives of talks on the FMCT in the Conference on Disarmament. There is a difference of position between Pakistan and the USA regarding a FMCT. Pakistan wants the existing stockpiles to be included in the proposed FMCT. Chief of US Arms Control and Disarmament Agency (ACDA), John Holms in his speech in the February session of CD said that USA would not agree to any restrictions on the issue of existing stockpiles.<sup>26</sup>

Pakistan has rejected the idea of a unilateral or even multilateral cap on the production of fissile materials. Foreign Minister Sartaj Aziz told the National Assembly on December 26, "Given our genuine security concerns, we can not agree to any demand for a moratorium on the production of fissile materials, unilaterally or multilaterally, before the conclusion of or separately from a FMCT. We believe that a fissile material treaty should be an instrument promoting both nuclear non-proliferation and nuclear disarmament. A fissile material treaty aimed at only preventing further proliferation would be discriminatory and thus ineffective..... Pakistan's other major problem is the unequal stockpile of fissile materials existing at the global, regional and sub-regional levels. We strongly believe that by cutting - off the future production of fissile materials without taking into account the existing

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<sup>26</sup> "Pakistan-US Talks : Islamabad Wants Ending of Sanctions before CTBT". POT. New Delhi. 16 February 1999. p.552.

stockpiles at the global and regional levels, they will only freeze nuclear imbalances."<sup>27</sup>

The basic arguments of Pakistan while referring to region, has the implication for India. It was repeatedly and indirectly conveying that India has much more stockpile than Pakistan and hence it would loose out if it agrees to a moratorium at this stage.

### **Strategic Restraint**

According to Talbott, a key objective of his discussion with the Pakistanis and the Indian, had been related to limitations on the development and deployment of missiles and aircraft carrying weapons of mass destructions. It is true that delivery systems themselves can become a source of tension and could increase the incentive to attack first in a crisis. Uncertainty of threat of nuclear weapons' destruction increases in situation of accident or miscalculation. But Pakistan can not unilaterally impose any limitation on development and deployment of missiles capable of carrying weapons of mass destruction. Such an arrangement can only be worked out through bilateral talks between India and Pakistan to finalise a package of prudent constraints on the deployment, flight-testing and storage of missiles.

Meanwhile, before the eight round of bilateral talks with US in February, India and Pakistan were exhorted to study the Intermediate Nuclear Forces Treaty

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<sup>27</sup> Amit Baruah, "Furthering US Agenda", Frontline, Chennai, 12 February 1999, p.98.

that the US and the Soviet Union concluded in 1987. This in the American reading was a worthy model for emulation by the adversarial neighbors. The US also urged both sides to put certain quantitative parameters into their frequently spoken of intentions to induct a "minimum nuclear deterrent". This would put verifiable limits on the scope and extent of weaponisation and stabilise a situation that threatened to escalate into a lethal arms race.<sup>28</sup>

But defying the spirit of advise of the US on April 14, 1999, Pakistan also indicated its decision not to loose the missile race by firing of 2000 km range of ballistic missile, Ghauri-II, in a matching response to India's testfiring of Agni-II on April 11, 1999. And the next day in April 15, 1999 Pakistan successfully conducted a flight test of its Shaheen-I (Hatf-II) surface - to - surface missiles within 24 hours of launching its long-range Gaurhi-II ballistic missile. Mr. Sharif and Pakistan's military leaders seemed to have approved the latest series of Pakistani missiles tests to convey the Pakistan's message of retaining the missile race competition and response to India's test of the Agni-II. Pakistani Foreign Office announced "these flight test have strengthened national security and will help a maintaining strategic balance in South Asia. "Pakistan also informed India in advance regarding its missile and flight test programmes.<sup>29</sup> But after the Agni-II and Gauhri-II and Shaheen -I

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<sup>28</sup> Sukumar Muralidharan., *"On to the Next Round"*, Frontline, Chennai, 12 February 1999, p.97.

<sup>29</sup> Statesman, Calcutta, 16 April 1999, p.1.

missile and flight test Indian Government and Pakistan Government assured that this missile test will not hamper the on-going Indo-Pakistan dialogue for peace.

### **Export Control**

Foreign Minister Sartaj Aziz said that the export control of nuclear technology was never a problem in the case of Pakistan it is totally in the public sector.<sup>30</sup>

Recently US and Pakistani export control experts met in Islamabad to discuss how both countries could enhance their respective export control systems. Prime Minister Nawaz Sharif said on January 9, that Pakistan does not intend to use nuclear arms against any country or to export its technology to a third country.<sup>31</sup>

### **Summary and Analysis**

Since last June, 1998 Washington has conducted separate parallel discussion with New Delhi and Islamabad aimed at heading off an escalation of nuclear and missile competition in the region. There has been no concrete progress on the issues based on objectives, even after the eighth round of talks between the US, India and Pakistan. Even though, there was a contradictory statements issued by both US and India, the Indian Government now has reiterated in its negotiations with the US, its basic nuclear doctrine of credible nuclear deterrence, no-first use, joining CTBT in

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<sup>30</sup> "Talbot Visiting Pakistan on February 2 for Nuclear Talks". POT, New Delhi, 16 January 1999, p.194.

<sup>31</sup> "Pakistan Not to Export Nuclear Arms, Says Nawaz". POT, New Delhi, 22 January 1999, p.258

coercion-free atmosphere and participating in FMCT negotiations without immediate stoppage of fissile material production. This posture is derived from India's national security imperatives and modern international nuclear strategic thinking. India has also displayed at all the negotiations with the US, its "inability to stop the intermediate missile programme, R&D on nuclear weapons, missiles and their deployment, fissile material production unless a universal and non-discriminatory order in the nuclear power context is accepted. It is a welcome signal that the US has acknowledged the need for "minimum deterrence" and the need for developing medium range missiles. But the ongoing dialogue between India and the US, may end without any tangible outcome due to the inflexibility on the part of dialogue partners issues relating to minimum deterrence. Indo-Pakistan talks on bilateral matters, including Kashmir, impending missile tests by India and Pakistan, US denial of World Bank and IMF loans to India, and China's role in the region, would be the most contentious solutions which appear to be a remote possibility.<sup>32</sup>

There are some indications of change in US posture. It is coming face to face with reality of two countries of South Asia being nuclear powers. Before coming to India for the eighth round of talks, Karl Inderfurth, Assistant Secretary of state for South Asia, said that "the major challenge before the US in South Asia are not so much about prevention but management of threshold that have been already crossed".

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<sup>32</sup> Snehlata Panda, *India and the United States: Perceptions and Policy*, Strategic Analysis, New Delhi, April 1999, p.119.

The US is working towards "transforming the India - American relationship in a true partnership". It wants to remain engaged and hopes to reach an understanding on non-proliferation issue. The US has many interests in the region and these would not be served if the relationship is "defined by a single issue agenda". He realistically acknowledged that though the US has been "warmly disposed towards India's democratic tradition yet somehow that never seemed quite enough to get us beyond correct but rather chilly exchanges with various governments". Inderfurth argues that neither democracy would be their principal basis of Indo-American relationships nor could the US take the Indian democracy for granted and "try to force India into positions for which there is no national consensus or that violate its concept of sovereignty or self interest".<sup>33</sup> One can infer from the above that there is some awareness now in the US that punitive measures alone can not deliver the goods. The US would therefore like to try persuasions by pointing out how a new approach could be beneficial for India.

A Pakistani scholar, Shireen M. Mazari writes, "Since Pakistan became an overt nuclear the Americans have been seeking to undermine this reality through various tactics and ploys. The sanctions approach may not have worked directly, but the disastrous and panic - stricken policies for Pakistan government adopted in their wake have taken their toll the nations financial health. While the Americans have

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<sup>33</sup> Official Text. USIS. New Delhi. Dec 1998. p.1.

realised the utility of sanctions, what seems to be working for them is the so-called nuclear dialogue they have managed to rope Pakistan into within a bilateral framework".<sup>34</sup>

Pakistan adherence to compulsive simultaneity with India had been overwhelmingly at its own cost. India's so-called "principled" stand on global de-nuclearisation, at least, won it a high moral ground no matter how spectral. Pakistan on the other hand ended up with little to show for its refusal to accede to the treaty other than its own innate sense of insecurity vis-a-vis India.

Given Pakistan's fragile economic situation, probably it would sign CTBT, expecting some benefit in a quid-pro-quo measures from the US. This is what Pakistan's scholars also consider best as a policy option. Pakistan's scholars perceive that Pakistan should have signed the CTBT without any bargaining while it cannot get much diplomatic advantage now, it is still not too late. At the same time Pakistan should make agreements on the FMCT with USA to actively participate in the conference on disarmament in Geneva, where the FMCT is being negotiated, so that it can project its interests and see them preserved within the provisions of this treaty. The FMCT more than any other treaty will establish the extent of Pakistan's nuclear potential for the future.

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<sup>34</sup> Shireen M. Mazari, "Has Pakistan Fallen into U.S. Tactical Trap?". Pakistan Observer, Islamabad, 14 January 1999, p.12.

The question "whether the US is prepared to strike a matching deal with India if the latter offer its earnest co-operation in genuine non-proliferation moves-to begin with CTBT and FMCT?" Will hold the thrust of development in future diplomacy in the months and years to come in this regard. Most probably India would demand lifting of sanctions, as it has been always emphatically stating for coercion free condition, for the forward movement towards signing CTBT and the other issues in this regard. The US also would demand to see its goals first achieved to consider lifting sanctions. Therefore, out of vigorous diplomatic efforts put by India and the US no concrete outcome is seen except the carefully created positive and tension-free environment in the diplomacy. One thing is certain that achieving stated six US goals is not a short term diplomacy, but it would take years to come in the future. Even if India and Pakistan sign CTBT before September 1999, it would be meaningless unless, until they sign FMCT also, as failure in this regard would facilitate for further nuclear weapons development which does not require further nuclear tests since India and Pakistan is believed already to have acquired required data for computer simulation test that has not been (or can not be) banned in the text of the CTBT.

Whatever may be the international pressure, without any concrete assurance of the US to lift at least some sanctions in quid-pro-quo measures for signing CTBT, India would probably not sign the CTBT before September 1999. India's forthcoming Lok Sabha Election in September 1999, also would be a determining factor in this

regard, as signing CTBT by the incumbent BJP government would be an opportunity to exploit politically by its rival Congress party propagating that BJP government sold India's sovereignty in terms of national security. Pakistan's decision making in this regard probably would largely depend on India's moves as it has always been in the past since Pakistan seeks parity with India in every aspects.

Eventhough it is very difficult to predict in the given complex atmosphere of nuclear diplomacy of sanctions, it would be probable that India would not sign the CTBT before Pakistan does, keeping its concern for high moral ground which to some extent pressurises P-5 countries to commit for universal and total nuclear disarmament. India does not probably fear the sanction's burden, as the prospects for lifting of sanctions for a period of five years on India and Pakistan is gaining momentum as the senate has approved the Brownback- Harkin Amendment on June 9, 1999. It has long way to go at least beyond September 1999 the dead line for CTBT, since the bill has to be approved by the House of Representatives and then by the president. Therefore India probably would adopt "wait and watch" approach even beyond the deadline for signing of the CTBT.

#### **FMCT (Fissile Material Cut-off Treaty)**

Last year India and Pakistan agreed to join talks on the conference on Disarmament in Geneva on Fissile Material Cut-off Treaty. This agreement would be an important milestone in promoting international acceptance of a key principle of nuclear arms control. But even if those negotiations move forward quickly the

completion and formal entry into force of a cut-off treaty is still several years away. To prevent accumulation of fissile material during the time, the US administration has urged India and Pakistan to join the other nations that have conducted nuclear test in announcing that they will refrain from producing fissile materials for nuclear weapons before conclusion of a treaty.

During Indo-US dialogue India has not given any sign towards signing a FMCT. But, eventhough Pakistan last year agreed to join conference on disarmament and agreed to be in close touch with the US to facilitate the discussion on the FMCT, Pakistan perceives that agreeing to moratorium on fissile material production will again steepen the imbalance of strategic force between India and Pakistan. Hence, there is every possibility of Pakistan upholding its stand thereby blocking FMCT coming into force in the near future.

### **Strategic Restraint**

The third key objective of US discussion with India and Pakistan involves restraint in the development and deployment of weapons of mass destruction. Unless India and Pakistan exercise great care, the delivery systems themselves would become a source of tension and increase the incentive to attack first in a crisis. American aspect that could not be overlkned is the threat of accident or miscalculation of nuclear missiles firing.

While these factors at work in South Asia, it is extremely unlikely that Pakistan or India make major concessions to the US on the missile front. While India

is persisting with its plan to develop its missile system, Pakistan too has stood up to the American pressure to freeze its missile programme. Pakistan perceives that missiles give it a reliable capability to hold the Indian threat at bay.

### **Export Control**

The principles of prudence and restraint also apply to the fourth issue the US has raised with India and Pakistan - tightened export controls on sensitive materials and technologies that could be used to develop weapons of mass destruction. Both countries have agreed that they bring the sensitive nuclear material policies and legal regimes in line with international standards. The US and other countries have begun discussion with India and Pakistan on export controls, and they also have agreed to move beyond the realm of principle into the that of the practical, including the exchange of information and expertise.

### **Reducing Bilateral Tension: Indo-Pakistan dialogue**

While the first four bench marks outlined by Talbott deal with the overt manifestation of the Indo-Pakistan nuclear competition, the fifth one relates to the underlying causes: the long-standing disputes between India and Pakistan. Mr. Talbott rightly argues that no amount of diplomatic exertion "on non-proliferation or any other subject will have much effect until India and Pakistan can "liberate themselves from their enmity. He however, makes it clear that while the USA and others can help through their good offices with both New Delhi and Islamabad will have to settle their bilateral disputes through "direct high-level frequent and above all productive

dialogue. Eventhough Pakistan has always been trying to take the Kashmir to the third party mediation like US or UN, India's steadfast refusal has prevented Pakistan's designs. Talbott also has implicitly ruled out the possibility of third party mediation at least at this stage.

During the dialogue with Pakistan, India had proclaimed the possibility of an agreement on the "no-first use" of nuclear weapons, which Pakistan rejected. The reason provided was that the move tended to deprive it of its nuclear deterrence. On December 1998 Foreign Minister Sartaj Aziz said that if Pakistan eliminate the first strike then for what purpose has Pakistan developed a nuclear capability and conducted the nuclear test. He emphasised the "no-first use" favors India which is superior in conventional weapons. Of course for Pakistan the purpose of nuclear capability is to equalise the conventional inferiority vis-a-vis India.

Of late both countries have talked in terms of maintaining what is being termed a minimum nuclear deterrent, suggesting the viability of the idea that they should be fully aware of each others nuclear weapons potential.<sup>35</sup>

Indian Prime Minister Mr. Vajpayee and his Pakistani counterpart Nawaz Sharif agreed to take "immediate steps" to reduce the risk of nuclear conflict between the two new nuclear powers, says the Lahore Declaration signed on Feb 21, 1999 by

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<sup>35</sup> "Nuclear-restraint Talks with India in New Year", POT. New Delhi, 6 January 1999, p.51.

two Prime Ministers.<sup>36</sup>

Meanwhile Pakistan has delinked CTBT issues from Kashmir issue. On December 7, 1998 Mr. Nawaz Sharif said in Washington that Pakistan's signing of CTBT was not linked to a resolution of the Kashmir issue.<sup>37</sup>

So far, Indo-Pakistan dialogue has not been very successful in terms of positive outcome on issues like Siachen, Sir Creek and Tulbul barrage which yet remain unresolved, even after Indian Prime Minister Vajpayee's historical bus diplomacy with Pakistan which otherwise created enormous positive, and tension free environment between India and Pakistan. But the irony in the thrust of Indo-Pakistan bilateral ties in the post nuclearised scenario is, contrary to the international fears of a greater danger in the subcontinent, the transition of India and Pakistan to overt nuclear postures actually improved the prospects for peace between the arch - rivals. It reminds of Kenneth Waltz theory of nuclear weapons being a stabilising factor, especially in adversarial situations. Therefore, assumably War between India and Pakistan is now simply unthinkable.

While the situation appeared in Indo-Pakistan bilateral relations almost stable, an infiltration in May 1999 by well-armed Pakistani irregulars and troops across the Line of Control (LOC) and their entrenchment in the Kargil Sector have created a

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<sup>36</sup> "Pak, India Sign Declaration to Reduce Risk of Nuclear War", POT, New Delhi, 9 March 1999, p.824.

<sup>37</sup> "Comments : Nawaz Sharif's Visit to USA", POT, New Delhi, 5 January 1999, p.41.

"War - like" situation in Kashmir, adding an additional irritant in the process of Indo-Pakistan talks for peace. It is understood that Pakistan's move in Kargil is part of a calculated design to revive the flagging militancy in Kashmir and place the disputes squarely in the focus of the international community. India's major objective was to regain the heights occupied by Pakistani irregulars and troops. At the outset it seemed certain that the objective could be realised after a long drawn campaigns of many months. However, the Kargil crisis placed India-Pakistan relations on conflict situation.

Strangely the Kargil event exhibited a major constructive role by the US. To defuse the conflict the US firmly rejected Pakistan's contention that the Line of Control (LOC) in Kashmir not clear and asked the Pakistan - backed infiltrators to go back. "We think the LOC has been demarcated over the years. It has been clear and those who infiltrated from the Pakistani side to the Indian side must go back" Bruce Riedel, said.<sup>38</sup> It is evident that the US this time has not tilted towards Pakistan's false propaganda and realised that favouring as in the past, would stand in the way of achieving its objectives in South Asia. American clarity of statement on LoC had profound effect on the resolution of Kargil conflict. The Prime Minister Nawaz Sharif visit to Washington to convince the American President Clinton to dilute the American stand on the LoC failed. The American insistence on ending the

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<sup>38</sup> The Times of India, New Delhi, 9 June 1999, p.1.

Kargil conflict by asking Pakistan to withdraw the intruders behind the LoC eventually succeeded and Pakistan having failed to get US support finally relented. By 20 July 1999 the reports indicated the Pakistani intruders and soldiers having completed their withdraw back to LoC.

The VI objective, as Assistant Secretary for South Asia, Karl Inderfurth stated is making India and Pakistan to "accept IAEA (International Atomic Energy Agency) safeguards on all nuclear facilities". But through out the talk from June 1998 to the till date, the US has not taken it up very seriously in its bilateral strategic dialogue with India and Pakistan.

When it comes to the overall evolution of the success of nuclear diplomacy of sanctions as to the vital issues like signing CTBT and FMCT, the underlying facts and diplomatic events enunciate that Washington's diplomatic effort led by Mr. Talbott has scored limited success in pushing forward its security and non-proliferation agenda in South Asia, evidenced by India and Pakistan's mere Willingness to abide the CTBT provisions and renewal of this bilateral talks for peace. Formidable challenges, however, lie ahead: controlling the missile race and getting the two countries to agree to create an interim moratorium regime on fissile material production.

Indeed progress on CTBT and setting India and Pakistan to talk to each other has been facilitated by the pragmatic view emerging in Delhi and Islamabad that the two sides would not lose much by being flexible on both these issues. First, both can

not afford to carry out further tests because the economic and diplomatic costs of another round of testing would be prohibitive. Second, they have already seemed to have attained for themselves a nuclear deterrent capability. The world has also begun to come to grips with the fact that their nuclear status, even if without de jure recognition by the major powers, is a fact of global strategic life. More tests serve no grand purpose and therefore, the CTBT is not an unacceptable treaty to be associated with. Third, the stand that India and Pakistan have taken on the CTBT is qualified - India and Pakistan say that coercive environment has to be removed for it to sign the treaty.

Moreover, Pakistan's major diplomatic moves regarding these vital issues are mainly dependent upon India's while India's decision making mainly depends upon the threat perception vis-a-vis mainly China and Pakistan as well. It is very much relevant to quote here, what Dr. Fred Bergsten, Director, Institute for International Economics, Washington D.C., said on 11 March, 1999, in a Lecture "Do Economic Sanctions Work", (organized by Confederation of India Industry, New Delhi): "economic impact is not the reason in scoring the range of success in Pakistan's case.....The role of threat perception of India and Pakistan to each other diluted the effectiveness of sanctions".

India and Pakistan's diplomatic moves with the US through out the period from June 1998 till date indicated that cost does not matter but the national security of a sovereign nation that matters vis-a-vis decision making in the vital issues, which

underpinned or constrained in the US non-proliferation objectives.

Therefore, the US sanction is an additional factor but not the major factor in making India and Pakistan to comply with the US objectives.

All these above, official statements, facts and analysis relating to nuclear diplomacy of sanctions, between US, India and Pakistan inevitably lead to conclude that economic sanction is not effective in disputes especially that affects or undermine the target country's security.

The third hypothesis taken up in this research is "In a single attempt, too many major goals may not be achieved by imposing sanction on a target country". As it has been mentioned in the beginning of this chapter, the US has projected six goals to be achieved by the sanctions. So far none of these goal has been achieved concretely through the diplomacy of nuclear sanctions.

And the nature of each goal has its own, different duration in which only that could be achieved. For instance signing CTBT is before September 1999 whereas bringing India and Pakistan (other countries as well) in to the fold of FMCT will take years in the future.

Moreover, no time frame or deadline has been outlined to lift the sanctions imposed on India and Pakistan achieving its goals.

Apart from these above factors, after achieving one or two major goals like signing CTBT the sanctions may be lifted because of the "double-edged sword" nature of the sanctions.

## **PARTIAL LIFTING OF SANCTIONS ON INDIA AND PAKISTAN**

On December 1, 1998 the US administration did partially and also unequally lift the sanctions imposed on India and Pakistan. Naturally an interesting question arises here: "Does the partially and also unequally waived sanctions on India and Pakistan have any strategic value to achieve the non-proliferation goals of the US? And if so what is the strategy?" Addressing such question could provide a better understanding on the subject of the theory of sanction - the nature of basic principle in which the sanction operates.

The U.S. decided to partially lift the sanctions against India and Pakistan exercising the US President's waiver authority that was given by Hank Brown Amendment to waive sanction selectively. The waivers valid until Oct 21, 1999. President Bill Clinton "decided in a very limited, targeted way to lift sanctions"... The US officials said only Islamabad will get Clinton Administrations support for loans from World Bank and other international lending institution for development projects.

The effects of easing the sanctions are:

- The US Export Import Bank, Overseas Private Investment Corporates (OPIC) and The Trade Development Authority (TDA) will now be able to participate in deals in both countries.
- Pentagon will resume international military education and training programmes in both countries.

- Access to US development agencies will be restored.
- Earlier, President Clinton had signed legislation exempting the US grain exports from a ban on the US commodity credit financing and had softened the sanctions to allow World Bank funding of humanitarian projects such as water supply facilities.
- President Clinton has authorised US officials to approve international bank loans and a debt restructuring agreement with the International Monetary Fund (IMF) in case of Pakistan.

The sanction's waiver that the President decided to use in the context of the authority granted to him by the Congress will not apply to high technology exports to India or military exports to Pakistan, it is being maintained. The thrust of the partially lifting of sanction has been on the economic aspect and access to military training.

The administration has also come to the conclusion that the time has come to resume the International Military Education and Training Programmes (IMET) with India and Pakistan as this was an important channel for communication between the militaries. "With India there was a programme to the tune of \$5,00,000 and there was no programme with Pakistan since 1990 as a result of the Pressler Amendment, the administration was asking the congress for fresh authorizations."<sup>39</sup>

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<sup>39</sup> The Hindu, New Delhi, 2 February 1999, p.1.

The limited waiver on sanctions against India and Pakistan comes at a time when hard liners in the political establishment were complaining that the administration was not seriously enforcing the sanctions against the two south Asian countries as was mandated by law. For instance, it was being pointed out that Treasury Department had not issued regulations for banking restrictions.

The President made the decision to waive some sanctions because of concrete steps taken by Islamabad and New Delhi to address the US non-proliferation concerns. The sanctions were lifted because of the progress made by these two countries in curbing their nuclear weapons programmes, the officials said.

A senior administration official said "....this is an effort to create a more positive environment for our ongoing non-proliferation discussions.... The other rationale is that the US is very keen to see Pakistan, whose economy is tottering, does not fold up and complicate matters in the region".<sup>40</sup>

The Administration officials have taken the position that both India and Pakistan have recently taken steps to curb the nuclear programmes and this represented "real progress" leading to the proposal of lifting some of the Glenn Amendment sanctions. The decision on sanctions "would demonstrate to the leaders and publics of both nations that we are serious about our dialogue and willing to respond to their positive sanctions. It was pointed out that President Clinton waived

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\* *ibid.*

some of the sanctions because both the Indian and Pakistan had declared a moratorium on nuclear testing, promised to sign the CTBT by September, 1999, agreeing to enter into negotiations in Geneva on a fissile material cut-off treaty and pledging to tighten export controls.<sup>41</sup>

During the regular briefing the US State Department spokesman, Mr. James Rubin, said: "the Clinton administration was prepared to use its tools in a "discriminating and flexible way" to achieve the objectives. To the extent that we can achieve progress towards those goals, we want, of course, to encourage that through "incentives and disincentives. That's always been our policy".<sup>42</sup> As James Rubin pointed out the US administration has adopted "discriminating and flexible way" and "incentive and disincentive" way in lifting of sanctions which was partially and unequally done to prove the strategy.

When the Democratic congressman, Mr. Frank Pallone, urged Clinton administration to lift sanctions concerning the World Bank and other International Financial Institutions (IFIs), President Clinton indicated that for the "road map" strategy to work, "it is imperative that we will not lift the sanctions prematurely". The President also said the recent US decision not to vote against the World Bank loan to India in response to India's Commitment to make a best effort to develop a

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<sup>41</sup>     ibid.

<sup>42</sup>     ibid.,p.10.

political consensus to sign the CTBT.<sup>43</sup> Senior State Department official also said on September 8, 1998, "ideally, we will prefer waiver authority for all of the sanctions currently in place". But he said "waiver authority would be used only when substantial progress has been made towards achieving the non-proliferation objectives".<sup>44</sup> And, even in a recent Senate approval of Brownback - Harkin bill on "suspensions of the sanctions" against India and Pakistan, the Clinton administration made clear that it prefers "waivers" as opposed to suspension or outright doing away of sanctions. A State Department official said that the administration "strongly prefers an approach that gives the president the authority to waive these sanctions when appropriate progress has been made as had been done last year". Mr. Karl Inderfurth made it clear before the Senate Foreign Relations Subcommittee, "the administration welcomes..... the decision of congress to extend the scope and durations of existing sanctions relief authority. And our view, recent events have under scored the advisability of providing the President with flexibility in form of waiver authority versus suspension regarding both the scope and timing of sanctions relief. We believe that this flexible instrument of diplomacy could contribute to the goals congress and administration hope to achieve".<sup>45</sup>

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<sup>43</sup> The Hindu. New Delhi. 3 March 1999. p.11.

<sup>44</sup> "Clinton seeks more power to Waive Sanctions". POT. New Delhi. 6 October 1998. p.3102.

<sup>45</sup> The Hindu. New Delhi. 11 June 1999. p.8.

So, it is understandable here that partially lifting of sanctions is a "carrot-approach" on India and Pakistan for making commitment towards signing the CTBT. The US administration had already said in an attitude of "stick-approach" that further lifting of sanctions on India and Pakistan would be in a phased manner which depends upon the progress of India and Pakistan towards achieving the US objectives. But an official statements of the Ministry of External Affairs of India deplored the persistence of an attitude of "coercion" (stick - approach) which was entirely "misplaced" and would prove "counter - productive".<sup>46</sup>

From the point of view of Pakistan, the US will lift restrictions on lending from the multilateral banks and these will be support for any agreement reached with the International Monetary Fund. It was maintained that the sanctions imposed in the aftermath of May nuclear test as had an adverse impact in the flow of foreign funds, and in the case of Islamabad there was a additional problem of some \$1.5 billion in IMF credit that was agreed on a year ago. On the differing attitude towards India and Pakistan on normal developmental World Bank loans the US officials said that while the sanctions had a marginal impact on India, it had brought Pakistan to the brink of default on its international debt. The administration urged that the easing of conditions for Pakistan with respect to the international financial institutions had to

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<sup>46</sup> Sukumar Muralidharan. "*Sanctions and strategies*". Frontline, Chennai, Dec 4 1998.p.20.

do with the "dire" economic condition that Islamabad was in.<sup>47</sup>

On the CTBT, it is entirely likely that the US and Pakistan have finalised a "deal" on the treaty. The US condition for helping IMF assistance to Pakistan was, immediate signing of the CTBT on the part of the Pakistan. The US strategy here lies; an early Pakistan signature of the CTBT can be successfully used by its administration to pressure India to sign the treaty.<sup>48</sup>

Therefore, it is understandable that all these above facts, at this stage of unfinished diplomatic process in achieving US goals, lead to prove the trend towards conforming the assumptions on the US strategy: (a) the partisan approach of the US in favour of Pakistan may encourage Pakistan to sign the CTBT which may ultimately pressurise India also to do the same. (b) the US and its allies on sanctions would try to bring equality in terms of economic stability between India and Pakistan by waving unequally: lifting of more sanctions on fragile Pakistan and less sanctions on India. The US perceives that India may be willing to sign the CTBT to avoid such equality of economic stability between India and Pakistan".

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<sup>47</sup> Sridhar Krishnaswamy. *"Movement in Right Direction on CTBT"*. The Hindu. 3 February 1998. p.12.

<sup>48</sup> *ibid.*

## **CHAPTER IV**

## **CONCLUSION**

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### **CONCLUSION**

The Core issue, for which this research has been carried out, is "whether sanctions as a standalone instrument of foreign policy contribute to the achievement of major American foreign policy goals or serve symbolic purposes? And, if so, under what conditions?"

The following four criteria have been undertaken in this research to measure the range of success of the US sanctions.

- i) The purposes for which sanctions imposed and achieved.
- ii) Negative effect of sanction should not be disproportion to positive effect to the sanctioner.
- iii) There should not be seen any other factor or force that might have contributed to the fulfilment of the purposes of sanctions. In Robert A. Pape's words "no more - credible explanations" should exist for the target country's change of behaviour, and.
- iv) Sanctions should have been applied before the target state changed its behaviour.

On the imposition of sanctions, the US stated five important objectives to be achieved through the nuclear diplomacy of sanctions. Making India and Pakistan to "sign the CTBT without delay or conditions" has been the foremost important goal that have been addressed throughout the US strategic dialogue with India and Pakistan. So far, this goal has not been achieved by the US. India and Pakistan have

merely showed their willingness towards the adherence of the CTBT. India and Pakistan are in the position that even in the future they will sign the CTBT in a "coercion - free" atmosphere.

Indeed, as already stated there are other "credible - explanations" for the progress on the CTBT and setting India and Pakistan to do renewal of the bilateral talks. This progress has been facilitated by the view in Delhi and Islamabad that two sides would not lose much on being flexible on both these issues. Diplomatic costs and economic cost for nuclear defence - establishment and already acquired nuclear deterrence outweigh the further nuclear test and so it is not an unacceptable treaty for India and Pakistan.

Pakistani Newspaper "Nation" (Dec. 16, 1998) and so of the American Newspaper reported quoting diplomatic sources in Delhi (not "of" Delhi) that India has started preparation to carry out more nuclear tests, including a neutron bomb test. If it could be reliable report, then India's attempt to further nuclear test could be attributed to the "negative - effect" as a "counter - product" of pressure of the sanctions on CTBT issue. The reason: the conduct of additional nuclear test would be India's tactic to bargain with the USA on strong footing before signing the CTBT. No doubt, Pakistan also would follow the suit then, even breaking the adherence to the CTBT if she (Pakistan) would have done so, to prove the words of Pakistan Prime Minister that if India conduct further tests Pakistan also will do the same not withstanding the adherence of the CTBT.

On the backdrop of above facts and analysis, it can be concluded that the US sanctions have achieved very limited success on the goal of signing CTBT.

The second foreign policy goal of US has been making India and Pakistan to "Halt production of fissile material and participate constructively in FMCT negotiations."

Last year India and Pakistan agreed to join talks at the conference on disarmament in Geneva on Fissile Material Cut-off Treaty. But India and Pakistan have not agreed to the US proposal on "interim moratorium" on fissile material production. Therefore, in this case also US goals has not been achieved anything concretely. Moreover, acceptance of India and Pakistan to join Conference on Disarmament could be attributed to the fact that mere participation in CD does not mean that India and Pakistan should or will sign a FMCT. Therefore, that was not a "Constructive Participation". This mere - participation of India and Pakistan has been witnessed even before the imposition of the US sanctions.

The third US foreign policy goal in this regard is making India and Pakistan to "Agree not to deploy or test missiles system".

Eventhough, India and Pakistan have established - missile system even before their nuclear tests, they had not strategically deployed missiles in their strategic locations. So, this is not a post-sanction's regime development to attribute to the success of sanctions.

And to 11th and 14th April of this year the long range ballistic missiles Agni-II and Gahauri-II were test - fired by India and Pakistan respectively, notwithstanding the sanction's pressure. So, in this case also the pressure of US sanctions has clearly emerged as "in-effective".

The fourth US foreign policy goal has been to seek India and Pakistan to "Maintain existing restraints against sharing nuclear and missile technology or equipment with others".

India and Pakistan have maintained the pre-sanctions regime statement that they have impeccable record on the matter of export control over the dual - use technology and equipment. Since India has been strong proponent of total nuclear disarmament and often sought time-bound programme of nuclear disarmament there are hardly evidence to prove that India indulged in proliferation of the dual-use technologies and the equipment.

The fifth US foreign policy goal had to urge India and Pakistan to "Agree upon a framework to reduce bilateral tensions including on Kashmir".

Eventhough, this is purely bilateral issue, the third party US urged India and Pakistan to do so, because this bilateral issue holds the key to achieve the rest of the US goals. India and Pakistan started rather renewed bilateral negotiations on their own, for their own causes but not for the US causes. No concrete progress has been found except the undaunted spirit to continue the bilateral talks even after adverse

developments viz - missile tests, emergence of war-like situation in the Kashmir. Here also, the facts are not convincing to support the effectiveness of sanctions.

Therefore, while we see, in a holistic approach, the range of success of the US sanctions as a standalone instrument of foreign policy as to achieving its stated goals in the case of sanctions imposed on nuclear India and Pakistan the facts and objective analysis lead to the conclusion that inevitably falls in to the line with the "pessimistic school of thought": **SANCTIONS DO NOT WORK** towards achieving the US foreign policy goals.

Despite the hard fact that the nuclear diplomacy of sanctions is unfinished and still on the way, the increasing trend that is being substantiated by facts and analysis convince this conclusions to the great extent.

The US sanctions have served for nothing but its own economic loss caused by loosing potential market in India and Pakistan, and loosing credibility of its investors world wide. This is also, convinced by the findings reached out of hypothesis testing: even, with global environment based more on interdependence in terms of economy and technology under the current globalization phase the sanctions are not effective on the countries imposed but adversely affects the imposer.

The reason her lie for failure of sanctions tool: The national security of any sovereign nation, for that matter here India and Pakistan, can not be compromised for so called peacer nuclear disarmament or accidental nuclear explosion.

The mutual threat perception of India vis-a-vis Pakistan (China as well) and vice-versa diluted the effectiveness of the US sanctions.

Therefore, the economic sanctions are not effective in disputes especially that effect the targets country's security.

Therefore, the US sanctions experiment in this South Asian case has clearly emerged as a futile experiment. Sanction's tool has not become a success - tool in promoting the US foreign policy interests. But an innovative experience is clearly through this South Asian case. In this process of nuclear diplomacy of sanctions, the US scrupulously adapted "discriminating and flexible" way that was facilitated by the president's Waiver authority. Because of this Waiver authority only the US president understandably made a "matching - deal" with Pakistan that Pakistan has to agree for signing CTBT for helping IMF's assistance. The US strategy in this game is that an early Pakistan's signature of CTBT can be successfully used by its administration to pressurize India to sign the treaty. Out come of this new experiment is due to occur only in the future course of diplomatic process, in the form of signing the CTBT.

Albeit, there has been always a notion, considering the ill-effect of sanctions, that imposing sanctions is in-humane as this blunt instrument fails to distinguish between the civilian and government. This innovative experiment of "discriminating the flexible way along with the technique of "smart - sanctions" have been suggested by some critics for targeting only the powerful, decision making-elite in the government in the form of freezing their overseas financial assets, blocking financial

transactions, cancelling visas and residency permits for leaders and their families, and banning travel. Such sanctions tools are considered for most likely to succeed.

Accompanying such sanctions would be a series of incentives (positive sanctions) designed to influence the political dynamics of the two countries in ways that favour accommodation. Incentives should empower political constituencies most likely to favour military and nuclear restraints. This would involve offering assistance to institutions in civil society that advocate democracy. Human rights and reordered spending priorities. It would also mean supporting programmes for increasing literacy, especially among women, and encouraging a more formed and diverse public debate about the risks of nuclear-weapons. One of the most powerful incentives for South Asia would be a 'debt for disarmament' swap in which countries and the international financial institutions agree to forgive portion of the huge foreign debt owed by each country in exchange for a commitment to denuclearize.

In the realm of theoretical formation, the alternative sanction's tools (to the blunt instrument of sanction) viz-"discriminating and flexible method", "smart-sanctions" and "positive sanction" need to be addressed separately and elaborately, for operationalizing the sanctions-tool successfully and smoothly in a more humane way.

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