

## Global Responsibilities: India's Approach\*

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*This article offers an examination of international developments central to globalisation in India and reviews India's approach to some prominent multilateral treaty systems such as the United Nations (UN), the World Trade Organisation (WTO), the international climate change regime, and the nuclear non-proliferation and test-ban regimes. It argues that, to be a responsible and true global player, India needs to move beyond its membership of narrowly based power caucuses within these regimes to constructively address the greater challenges that these treaties are focused on. Thus, India's engagement with the multilateral system needs to be one that serves the interests of the system rather than the national interests of India alone. Through a historical overview of India's multilateralism, the article probes India's variable contemporary performance in four substantive fields of foreign policy to assess India's multilateral stance during the post-Cold War period. It evaluates India's diplomatic approach to global challenges like climate change and the wider multilateral system to reiterate the need for India to engage further in multilateral diplomacy and address global challenges, going beyond narrow conceptions of the nation's bilateral partnerships. India's aspiration to be a great power will only materialise if it is prepared to balance its political and economic obligations, both nationally and internationally.*

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### INTRODUCTION

India's voice carries significant weight today in multilateral forums largely

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due to its enhanced economic power, political stability, and nuclear capability. Although the assertion by a respected Indian editor that “the world concludes that India is a ‘predictable player’ with enduring national interest” may be optimistic or at least premature, there is certainly much greater willingness among major powers in the international system to engage India today – multilaterally as well as bilaterally – than there was sixty years ago.

Yet, as India’s stature is growing, its stake in some forms of multilateralism is diminishing. In almost every international forum, India has explicitly engaged with smaller groups of powerful nations to affect outcomes at the expense of the more broad-based universalist approach it traditionally espoused (or claimed to) toward multilateralism. India has also significantly reduced its reliance on the multilateral treaty-based system as a whole, preferring instead bilateral relationships with major powers such as the United States, China, the EU, Japan, and Russia in almost every field of international cooperation from trade to nuclear technology. Even in organisations rooted originally in ideological or other forms of solidarity between members, such as the Non-Aligned Movement, and the Commonwealth (of which Kamallesh Sharma, an Indian, became Secretary-General in 2009) India of late has become somewhat detached.

This paper reviews India’s approach to some prominent multilateral treaty systems such as the United Nations (UN), the World Trade Organisation (WTO), the international climate change regime, and the nuclear non-proliferation and test-ban regimes. India has over time gained prominence in each of these regimes and has been able to articulate and protect its national interests with a measure of success in each. However, we argue that to be considered a responsible global player, India will need to move beyond its membership of narrowly based power caucuses within these regimes to address constructively greater challenges that these treaties are focused on. India’s engagement with the multilateral system therefore needs to be of the type that serves the interests of the system rather than the interests of India alone. By doing so, India can gain recognition as a true global player rather than a regional power whose interests are often at odds with the aims of the multilateral system.

The paper first provides a quick historical overview of India’s multilateralism and then looks at India’s variable contemporary performance in four substantive fields of foreign policy or forums of significance to India’s

multilateral stance during the post-Cold War period of wider multilateral transition and flux: the UN Security Council (UNSC); the World Trade Organisation (WTO) and its Doha Round negotiations culminating in 2008; international efforts to combat climate change through the Copenhagen UN conference of late 2009 and subsequently in Cancun in 2010; and the global nuclear non-proliferation and testing regime via the Nuclear Non-Proliferation Treaty (NPT) and the Comprehensive Nuclear Test Ban Treaty (CTBT). The concluding section elaborates challenges for India's approach to the multilateral system and reiterates the argument for a more comprehensive view of global challenges that goes beyond narrow conceptions of national interest.

### HISTORICAL OVERVIEW

Post-independence India was an enthusiastic supporter of the multilateral system, at that time comprised largely of the United Nations (UN) and its associated organisations. However, Delhi soon encountered a major setback at the UN on the issue of Kashmir, and since then India has been loath to allow any form of multilateral intervention not just in Kashmir but also in the South Asian region, much of which it regards as a sphere of influence more generally.<sup>1</sup> Delhi's aversion to any UN inclination to over-ride state sovereignty is evident even in its approach to peacekeeping – India's most celebrated contribution to the UN, through its generous provision of military and civilian staff – for which it emphasises the need for consent of the parties involved.

During the Cold War, India's non-aligned foreign policy and the desire to carry greater weight internationally than its frail domestic economy and military resources would permit led Delhi to continue its support for the multilateral system while trying at every turn to prevent either superpower bloc from usurping the mandate of the United Nations. India's stance toward various international issues – the 1950 Acheson Plan, the UN's role in the Korean War, the Indo-China conference of 1954, the Suez crisis – reflected this strategy. With the advent of the Non-Aligned Movement (NAM), India also began championing the cause of developing nations in UN forums in a more structured manner than before.

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1 See C. Raja Mohan, "India and the New World Order," *Seminar*, August 29, 2003.

Following another setback with the UN over the Bangladesh War of 1971 and India's "peaceful nuclear explosion" of 1974, India's relationship with the multilateral system went into stasis, to be revived with the end of the Cold War and the re-emergence of the UN as a forum for multilateral cooperation on security issues.<sup>2</sup> The rest of the multilateral system also received a boost in the 1990s, with the unprecedented 1992 Rio Summit on climate change, the implementation of the Uruguay Round and establishment of the WTO from 1995 onward, the indefinite extension of the NPT in 1995, the adoption of the Comprehensive Test Ban Treaty (CTBT) in 1996, and the Kyoto Protocol on climate change in 1997. In all of these discussions and activities India was active and often played a leading role, but occasionally Delhi opted for a stance other than creative, positive diplomacy, as at the CTBT conference, where many saw it as a would-be "spoiler".<sup>3</sup>

As India's own economy grew after the domestic reforms of 1991, Third World leadership became only an intermittent and secondary goal of Indian foreign policy (indeed, the term Third World itself had lost its meaning). Afro-Asian solidarity had little meaning in WTO negotiations where African agricultural interests could be at odds with those of India.<sup>4</sup> India could no longer credibly claim to be "a spokesman of the Afro-Asians, the non-aligned, the under-developed and the small states" and use the UN to enhance its stature in this manner at a time when it had significant economic interests of its own to advance and defend.<sup>5</sup> Thus India's rising stature began to transform its approach to the multilateral system, as will be analysed in four issue areas below – UN Security Council reform, trade, climate change, and nuclear non-proliferation.

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2 See David M. Malone (Ed.), *The UN Security Council, from Cold War to 21<sup>st</sup> Century*, Boulder, CO and London, UK: Lynne Rienner, 2004, particularly pp. 4-13, 617-649 and its chapter by Peter Wallensteen and Patrick Johansson, "Security Council Decisions in Perspective", pp. 17 -33.

3 Amitav Mallik, *Technology and Security in the 21<sup>st</sup> Century: A Demand-Side Perspective*, SIPRI Research Report No. 20 (Oxford University Press: 2004), p. 74.

4 See Amartya Sen's comments in P. S. Suryanarayana, "India will continue to grow, says Amartya Sen", *The Hindu*, 19 February 2009: "When the last Doha Round [of global trade talks] got busted, basically, the Chinese, the Indians, and the Brazilians didn't like what was being proposed ... And, they wanted a bigger concession [on agriculture] ... The Chinese, the Indians, and the Brazilians were right to demand it. On the other hand, the Europeans and Americans had put on the table some concessions which would have been very good for Africa. Now, when China, India, and Brazil busted the Doha Round, it served their interests quite well. It did not serve the interests of Africa."

5 Reddy, *India's Policy*, p. 45.

## INDIA RISING: REFORM OF THE UN SECURITY COUNCIL

Prior to the 1990s, India's approach to the UN and the principles of international law enshrined in its charter had been cautious, aimed at safeguarding India's status and territorial integrity as a slowly emerging developing nation. Delhi often acted as an organiser of Third World interests that coincided largely with its own. Thus, the assertion by an Indian scholar that India has made "strenuous efforts to uphold (the) principle (of sovereign equality of states) for the benefit of developing countries."<sup>6</sup> Similarly, with Kashmir in mind, India had unambiguously held that the principle of self-determination could not be invoked to enable "the integral part of any country or sections of its population to secede" and that the principle only applied to nations as whole in the context of foreign domination or colonial exploitation.<sup>7</sup>

As its economy took off in the 1990s, India's stature and interests in relation to the UN system began to change. India's economic growth on the one hand cast it as a model for many other developing nations but also created a potential rift between it and the poorer nations of the world – for whom it had once routinely spoken – one that India did not take pains to address. With regard to the UN, India began a transition from 'rule taker' to tentative 'rule maker'. Delhi began suggesting reforms for the UN, especially in the composition of the UNSC. In 1992, Prime Minister Narasimha Rao argued for the latter on the grounds of maintaining the "political and moral effectiveness"<sup>8</sup> of the UNSC. The US responded in 1993 with the suggestion that UNSC expansion begin with Germany and Japan only, with indications that any new permanent members might not secure veto power.<sup>9</sup> The American response was a pointed reminder to India of its place in the international system at the time and of the cost its long history of anti-Americanism in multilateral institutions could still carry.

In 1991-92, India sat as an elected member in the UN Security Council during one of that body's busiest periods, with Iraq's invasion of Kuwait; Iraq's subsequent repression of its Kurds; the beginnings of the

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6 Bimal N. Patel, "Introduction," in Bimal N. Patel (ed.), *India and International Law, Vol. 1* (Leiden; Boston: Martinus Nijhoff, 2005), p. 1.

7 Pemmaraju Sreenivasa Rao, "General Principles of International Law and India," in Patel (ed.), *India and International Law, Vol. 1*, p. 52, quoting statements by Vijayalakshmi Pandit at the UN General Assembly on 30 Sep 1963 and M.C. Chagla at the UNSC on 5 Dec 1964.

8 Tad Daley, "Can the U.N. Stretch to Fit its Future?" *The Bulletin of the Atomic Scientists*, April 1992, p. 41.

9 J.N. Dixit, *India's Foreign Policy*, p. 273.

disintegration of Yugoslavia leading to a succession of wars in the ensuing years all featuring extensive UN involvement; the humanitarian plight of Somalis to which the UNSC responded with armed intervention; as well as ambitious UN peacekeeping operations in Cambodia, Mozambique, and El Salvador. India sought to temper the enthusiasm of Western powers and some others for armed intervention (as opposed to consent-based peacekeeping), its interventions in Council debates later seeming prophetic of the risks then being courted.<sup>10</sup>

In 1996, India, which had previously sat in the UN Security Council as a non-permanent member, ran again for an elected seat. It competed with Japan for the single Asian seat available and lost massively. Indian foreign service members spoke privately of the debilitating effects on their campaign of Japanese “checkbook diplomacy” in the developing world – and doubtless this factor played a role – but it seemed to occur to few in Delhi that the caustic performance of its delegation to the CTBT conference earlier that year might have alienated not a few of its NAM partners as well as many in the West.<sup>11</sup>

Despite its changing interests, India continued to demonstrate a lack of flexibility with regard to the international order that it wished to reform. The traditional unwillingness to trade off even small amounts of sovereignty for cooperative gains was evident in Delhi's approach, for example, to the International Criminal Court and the expanding role of the UNSC in the 1990s.<sup>12</sup> One of India's primary objections to the ICC was that it did not give full recognition to the primacy of national jurisdiction.<sup>13</sup> On other issues, India continued to make statements reminiscent of its unyielding positions from earlier decades. For example, as late as 2004, in a response to UNSC Resolution 1540 on proliferation of weapons of mass destruction, the government of India stated: “India will not accept externally prescribed norms or standards, whatever their source, on matters within the jurisdiction of its Parliament, including national legislation, regulations or arrangements which are not consistent with India's constitutional provisions and procedures, or are contrary to

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10 For a discussion of the manner in which the UNSC widened its remit during this period, see Chinmaya R. Gharekhan, *The Horseshoe Table* (Delhi: Longman, 2006), p. 3

11 This was confirmed in extensive interviews of UN delegates in New York by David Malone in December 2006, and after the election.

12 Jerry Fowler, “The Rome Treaty for an International Criminal Court: A Framework of International Justice for Future Generations,” *Human Rights Brief*, Vol. 6, Issue 1, Fall 1998.

13 Saumya Uma, *International Criminal Court and India: Responses to Queries Raised by Parliamentarians*, (Mumbai: Women's Research and Action Group, 2005).

India's national interests, or infringe on its sovereignty."<sup>14</sup>

Undoubtedly, Delhi was wary of the expanding scope of a UNSC in which India had no permanent membership. Fearing a more active UNSC with a wider remit, and feeling a sense of entitlement, India was increasingly committed after the 1996 election experience to reform of the Security Council. Later contention within the Council in 1999 over Kosovo, in 2002-2003 over Iraq and its decisive resolution supporting US self-defence after the events of 11 September 2001 were doubtless further elements leading India to wonder why it was not part of these systemically important conversations. Nonetheless, India's newfound status helped it cope better with the renewed interventionism of the United Nations. Delhi successfully prevented Secretary General Kofi Annan's post-1999 efforts to involve the UN in Kashmir and also rejected a UN resolution requiring India to curb its nuclear and missile programs.<sup>15</sup>

In the run-up to the 2005 UN Summit, India developed a comprehensive proposal for UN reform on the subjects of new permanent members in the UNSC, a more restrained and effective UNSC, greater balance between the principal organs of the UN, definite rules of procedure, and greater accountability of the UNSC to the General Assembly.<sup>16</sup> On UNSC membership, India banded with Brazil, Germany and Japan (together known as the G-4) in order to press for Council reform involving the creation of four new permanent seats for them (and another two for Africa, as well as four further elected seats). Speaking at a joint session of Congress after inking an important strategic partnership with the United States in July 2005, Manmohan Singh was unequivocal in his demand for the ultimate recognition of India's power. "There *must* be comprehensive reform of the United Nations to make it more effective and also more representative...In this context, you would agree that the voice of the world's largest democracy *surely cannot* be left unheard on the Security Council when the United Nations is being restructured."<sup>17</sup>

In spite of a determined push from all of the capitals involved, the effort failed. The G-4 had essentially argued their case on the basis of entitlement to the seats given their weight in international relations, their financial share

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14 Rao, "General Principles," p. 44.

15 C. Raja Mohan, "India and the New World Order," *Seminar*, 29 August 2003.

16 Bimal N. Patel, "India and the UN Reforms," in Bimal N. Patel (ed.), *India and International Law, Vol. 2* (Leiden; Boston: Martinus Nijhoff, 2005), p. 65.

17 Prime Minister Manmohan Singh's Address to the Joint Session of United States Congress, Washington DC, 19 July 2005, [http://www.indianembassy.org/press\\_release/2005/July/23.htm](http://www.indianembassy.org/press_release/2005/July/23.htm). Emphasis added.

of the UN's bills, and their contributions to aspects of the UN's work such as peacekeeping. But this failed to address the concern of some member states more worried about the UNSC's effectiveness than the additional legitimacy a wider composition could impart, fearing that a much larger Council could become paralysed on key issues.

After an abortive attempt in 2006 to support an Indian candidate, UN Under-Secretary-General Shashi Tharoor, for the position of UN Secretary-General, India's ambitions for a greater role in the UNSC were left in limbo until President Obama's visit to Delhi in late 2010. In his speech to the Indian parliament, President Obama echoed the grounds on which India had advocated UNSC reform: "Indeed, the just and sustainable international order that America seeks includes a United Nations that is efficient, effective, credible and legitimate. That is why I can say today, in the years ahead, I look forward to a reformed United Nations Security Council that includes India as a permanent member."<sup>18</sup> This seemed an unequivocal endorsement of the Indian position, coming on the heels of India's election as a non-permanent member of the UNSC after a hiatus of 19 years. India's election was all the more convincing given that it received the support of 187 out of 192 countries (including Pakistan), compared to the 42 votes it received in 1996 when it lost to Japan.<sup>19</sup>

However, the initial enthusiasm generated by Obama's remarks were put to rest just a week after the President's visit, with US officials cautioning against undue optimism for what would no doubt be "a long-term and very complicated process."<sup>20</sup> While this did not surprise many observers, the President's speech remained an important signal from the United States for India to take on greater responsibility in the management of the multilateral system during its current tenure in the UNSC. As argued by one Indian newspaper, permanent membership for India was "an entirely different game, one subject to multiple pressures from the four corners of the world, including China and Pakistan, not usually well-disposed to India's enhancement on the world stage."<sup>21</sup> Nonetheless, some concluded that India's current non-permanent tenure on the UNSC could be "a useful tool in the quest for permanent membership."<sup>22</sup> In effect,

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18 The White House, Office of the Press Secretary, "Remarks by the President to the Joint Session of the Indian Parliament in Delhi, India," November 08, 2010, available at: [www.whitehouse.gov/the-press-office/2010/11/08/remarks-president-joint-session-indian-parliament-new-delhi-india](http://www.whitehouse.gov/the-press-office/2010/11/08/remarks-president-joint-session-indian-parliament-new-delhi-india).

19 *The Hindu*, "India in the Security Council," Oct 14, 2010.

20 *Indian Express*, "US throws water over Indian hopes for UNSC seat," 16 November 2010.

21 *The Asian Age*, "UNSC Win Is Also A Challenge For India," Oct 14, 2010.

22 Richard Gowan, "Indian Power and the United Nations," *World Politics Review*, 15 Nov 2010.

the burden of proof that it can be a responsible global player is now on India's shoulders, in what one Indian senior official has described as a "not a dress rehearsal"<sup>23</sup> for permanent member status, but might well be described as an audition before the likely still sceptical existing permanent five (whatever their publicly professed enthusiasm for India's candidacy for permanent status).

### FROM UNIVERSALISM TO INDIVIDUALISM: THE WTO

Post-1991, India's approach to the multilateral trading regime received a major boost as its domestic program of economic liberalisation coincided rather happily with the Uruguay Round of trade negotiations. This not only prepared India domestically to deal with multilateral trade liberalisation, it also provided India a vital bargaining chip in multilateral negotiations.<sup>24</sup> In the words of a prominent Indian economist, "The gap between what the Uruguay Round required India to do and what India would have wanted to do of her own volition was reduced."<sup>25</sup> Although certain areas – intellectual property rights, services, agriculture, and quantitative restrictions – remained exceptions, India was far more comfortable with the multilateral trade regime after 1991 than it had ever been before.

Consequently, while it had remained largely a passive spectator in the GATT/WTO regime until the late 1990s, India spoke up at the 1999 Seattle meeting of the WTO against the inclusion of labour and environmental standards on the WTO agenda.<sup>26</sup> In the run up to the Doha Round of 2001, India challenged the efforts of developed nations to introduce the so-called "Singapore issues" – competition, investment, trade facilitation, and government procurement – into discussions, and emphasised the need for developed nations to fully implement their Uruguay Round commitments, especially in agricultural market access, textiles, and clothing. India also opposed the strict provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) on compulsory licensing for the drug industry, an issue in which Indian pharmaceutical companies had an

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23 Edith Lederer, "India Says Security Council Now More Credible" Associated Press, 4 January 2011, available at [http://www.msnbc.msn.com/id/40916795/ns/world\\_news-asia-pacific](http://www.msnbc.msn.com/id/40916795/ns/world_news-asia-pacific).

24 Veena Jha and Swapna Nair, "India and the WTO," in Samana Kelegana (ed.), *South Asia in the WTO* (Sage, Delhi: 2007), p. 61.

25 Bibek Debroy, "India's Economic Liberalisation and the WTO," in Suparna Karmakar, Rajiv Kumar, Bibek Debroy (eds.), *India's Liberalisation Experience: Hostage to the WTO?* (Indian Council for Research on International Economic Relations: 2007), pp. 40-41.

26 Sengupta et al, *Beyond the Transition*, p. 29.

important stake.<sup>27</sup> Ultimately, although India acquiesced in the launch of a new trade round at Doha in 2001, it walked away from that meeting satisfied with beneficial outcomes on labour standards, which were deflected to the ILO, a substantive discussion on agriculture, and an agreement on TRIPS and public health that would not require compulsory licensing for Indian-manufactured drugs in cases where public health concerns mandated cheaper drug access.<sup>28</sup>

India continued to benefit from its economic rise while maintaining developing country solidarity at the WTO. In 2003, Brazil and India formed the G-20 group of developing countries (which is distinct from the G-20 group of major economies that came together to tackle the global financial crisis) that effectively advocated their collective interests on a number of issues. In 2004, India was included in a small high-powered group at the WTO called the Five Interested Parties – along with the US, the EU, Brazil, and Australia – that superseded the traditional “Quad” of the US, the EU, Japan, and Canada. India’s inclusion was a sign, beyond its economic significance, of the G-20’s effectiveness as a negotiating bloc. It was also a sign of the US’s acceptance of India as an important player in multilateral negotiations.

India was also in a better position to confront Western powers in the WTO since its trade portfolio no longer relied on them as much (gradually shifting toward China instead).<sup>29</sup> An important sign of India’s multilateral transformation was the shift in its position on trade in services between the Uruguay and Doha rounds. Whereas in the past, India and Brazil, had opposed the inclusion of services in trade negotiations, India’s services-led growth ensured that by 2004 – when services accounted for approximately 52 per cent of GDP, up from 28.5 per cent five decades earlier<sup>30</sup> – it was an ardent advocate of liberalisation in the modes of trade in services where it had significant interests.<sup>31</sup>

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27 See Aaditya Mattoo and Arvind Subramaniam, “India and the Multilateral Trading System Post-Doha: Defensive or Proactive?” in Aaditya Mattoo and Robert M. Stern (eds.), *India and the WTO* (World Bank and OUP, Washington, D.C.: 2003), p. 328.

28 Sengupta et al, *Beyond the Transition*, p. 31.

29 Debashis Chakraborty and Amir Ullah Khan, *The WTO Deadlocked: Understanding the Dynamics of International Trade* (SAGE, Delhi: 2008), p. 2.

30 See Government of India, Economic Survey of India, 2008-09, Table A6: Gross Domestic Product at Factor Cost by Industry of Origin (in current prices). Services include trade, hotels, transport, communication, finance, insurance, real estate, business services, public administration, defence services and other services. Available at: [indiabudget.nic.in/es2008-09/chapt2009/tab13b.pdf](http://indiabudget.nic.in/es2008-09/chapt2009/tab13b.pdf).

31 Chakraborty and Khan, *The WTO Deadlocked*, p. 5.

By 2004, India had proved itself an adept navigator of the international trade system. This was particularly true of the way in which Delhi had managed its interactions with the WTO dispute resolution mechanism. Although initially a flurry of cases – totalling thirteen – against India between 1995 and 1998 had forced reforms of the domestic market,<sup>32</sup> the subsequent period from 1998 to 2004 saw only an additional three cases, suggesting that India was able to quickly learn from its experiences and modify its domestic policies in line with WTO requirements.<sup>33</sup> Moreover, by 2004 India had itself filed 16 cases against other countries at the WTO's Dispute Settlement Body (DSB), of which it had won seven.<sup>34</sup> This suggested a measure of adaptability and learning in Delhi's approach to the new rules and procedures of the international trade regime.

Despite progress in other areas, intellectual property rights and patents remained a thorny issue for India (as did agriculture). During the Uruguay Round, India had argued for “the freedom of Member States to attune their intellectual property protection system to their own needs and conditions.”<sup>35</sup> India's attempt to balance the IPR requirements of the WTO with its own developmental goals remained a constant theme throughout the subsequent rounds of negotiations. Particularly problematic were issues such as the transfer of technology, local working of patents to meet the reasonable requirements of the public, and the availability of medicines at affordable prices.<sup>36</sup> Despite objections, however, India has worked to modify domestic patent laws to conform to its international obligations under the TRIPS agreement. Needless to say, implementation of the new laws leaves much to be desired, as does the enforcement of TRIPS obligations by India's patent authorities. In the realm of pharmaceutical products, for example, a number of major drug companies that entered Indian markets following the change in domestic laws continue to face difficulties in having their patents upheld by domestic courts and India's patent office.<sup>37</sup>

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32 Dipankar Sengupta, Debashis Chakraborty, Pritam Banerjee (eds.), *Beyond the Transition Phase of WTO* (Academic Foundation, Delhi: 2006), p. 28.

33 J. Chaisse and D. Chakraborty, “Dispute Resolution in the WTO: The Experience of India,” in Sengupta et al (eds.), *Beyond the Transition Phase*, pp. 520-24.

34 *Ibid.*

35 V.G. Hegde, “India and the International Patent System,” in Patel (ed.), *India and International Law, Vol. 1*, p. 106.

36 *Ibid.*, pp. 116-117.

37 Geeta Anand, “Drug Makers Decry Indian Patent Law,” *Wall Street Journal*, Feb 11, 2010.

In 2007-08, the Doha Round discussions proved a brass knuckles affair amidst a burgeoning global food security scare (with attendant inflation of basic produce prices in most countries). India and Brazil, speaking “for” the developing countries, confronted the United States on agriculture. While both Washington and Delhi were open to success of the talks, their political bottom lines collided in Geneva in July 2008. Rather damagingly for India’s international image, in the final reel in Geneva, India was abandoned in its hard line by Brazil (which, like many African countries, on balance, wanted an agreement even at the price of greater compromise) and Indian Commerce Minister Kamal Nath stood out in his vehemence within the negotiations. “I reject everything” he was quoted as saying in response to a compromise paper others seemed to be prepared to swallow.<sup>38</sup> He was alone in seeming to claim credit for the talks’ failure, with EU, US and Chinese negotiators, who had contributed considerably to the overall deadlock only too willing to deflect responsibility on to him.<sup>39</sup>

In India, Nath was largely portrayed in heroic terms.<sup>40</sup> However, in the Congress-led UPA coalition’s second consecutive term following the 2009 election, Nath was shifted to the road transport and highways portfolio and replaced by Anand Sharma, known for his low-key style. India lost no time in calling over 30 leading trade ministers to Delhi for consultations, with the aim of advancing the Doha Round, perhaps in order to allow this change of personnel and style to sink in fully, and, in the words of one commentator, to cast India as a “pro-active participant in multi-lateral talks rather than a thorn in the flesh as the global media had suggested in 2008.”<sup>41</sup>

Following the collapse of Doha round negotiations, however, Delhi mostly continued to eschew multilateral approaches, and, in parallel to the United States, favoured bilateral and regional trade agreements. By September 2009, India had conducted ten rounds of trade negotiations with Japan,

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38 Blustein, *Misadventures*, p. 267.

39 Anthony Faiola and Rama Lakshmi, “Trade Talks Crumble in Feud Over Farm Aid”, *Washington Post*, 30 July 2008.

40 One leading Indian economist noted during a confidential interview that if India’s agricultural sector is such a “mess”, then surely successive governments rather than the WTO have a great deal to do with this. Other experts note that India’s interest in expanding internationally its services sector was barely mentioned in the WTO rows, suggesting that official decision-making is driven much more by political impulses than India’s actual economic and social needs, even that it is “substantially data-free”, often, perhaps unwittingly at times, setting up a conflict between “principles and outcomes.” And, in spite of enthusiasm over Nath’s theatrics in the short term, his performance today is assessed more critically even by a number of strong Indian nationalists as “too abrasive” (Conversations in Delhi, January and February 2010).

41 Rituparna Bhuyan, “WTO meet: Taking the Doha Round forward”, *Indian Express*, 4 September 2009.

six rounds with the EU, and three rounds with the European Free Trade Association (EFTA).<sup>42</sup> In August 2009, India also concluded the ASEAN-India Free Trade Agreement (AIFTA), which had been in the works for a few years, and was a limited deal involving many opt-out options.<sup>43</sup>

### THE SHAPE OF THINGS TO COME: CLIMATE CHANGE

India's approach to international environmental law has in some ways mirrored its approach to the international trade regime. In both cases, India has traditionally strived to balance the commitments of international law with the exigencies of domestic law and development. On the issue of environmental law, while India has taken steps to bring its domestic legislation in line with international requirements, it has also been vocal in articulating the consistent tension between developmental objectives and the requirements of international environmental law. Following the 1972 UN conference on the environment at Stockholm, India amended its constitution and domestic laws to accommodate international conceptions of environmental law. New laws such as the Air (Prevention and Control of Pollution) Act 1981 and the Environment (Protection) Act 1986 were passed. Following the Rio summit of 1992, India also legislated the National Environmental Tribunal Act 1995.<sup>44</sup> In the late 1980s and early 1990s, the Indian judiciary expanded the scope of the fundamental right to life and personal liberty guaranteed in Article 21 of the Indian Constitution to include environmental protection.<sup>45</sup> While making these changes, India has also consistently advocated financial assistance to developing nations by developed nations in order to achieve sustainable development, and the equitable sharing of benefits arising out of the utilisation of resources such as genetic resources.<sup>46</sup>

The tension between international environmental law and domestic priorities became most evident in the run up to the Copenhagen climate conference of 2009. Following the 2009 national elections, and a first term in which environmental matters received scant attention within the government, Prime Minister Singh appointed one of India's most talented

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42 Patralekha Chatterjee, "Unhealthy effects of FTAs," *Asian Age*, 14 September 2009.

43 Data are not yet available to determine whether trade with India's new bilateral and regional trading partners has increased as a result of these agreements.

44 A. David Ambrose, "International Environmental Law and India" in Patel (ed.), *India and International Law*, Vol. 1.

45 *Ibid*, p. 255.

46 *Ibid*, pp. 256-257.

mediagenic younger politicians, Jairam Ramesh, to the environment portfolio. India's position had long been to stick closely to the terms of the Kyoto Protocol to the UN Framework Convention on Climate Change, under which industrialized countries committed to specific targets for emission reductions while developing countries were not required to do so under the "common but differentiated" responsibilities approach that had characterised UN discussions and agreements on the issue since the Rio Conference.

Ramesh began arguing within the government in favour of flexibility with regard to India's approach to climate change negotiations, in line with the reported determination of Prime Minister Singh that at Copenhagen, India should be "part of the solution to the problem."<sup>47</sup> Ramesh was quoted as having argued: "India must listen more and speak less in negotiations" as its stance is "disfavoured by the developed countries, small island states and vulnerable countries. It takes away from India's aspirations for permanent membership of the Security Council."<sup>48</sup> Ramesh was soon challenged by two of India's long-time negotiators, and reportedly also by the Prime Minister's Special Envoy on Climate Change, Shyam Saran, a former Foreign Secretary. Specifically, an offer articulated by Ramesh that India could offer to reduce India's carbon intensity by 20-25 per cent of 2005 levels by 2020 was questioned by the negotiators who queried the prudence of offering unilateral concessions without obtaining reciprocity from other countries.<sup>49</sup> Ramesh was quick to point out in Parliament that India's concession was not legally binding and would still permit economic growth; doubtless a useful tactic in parliament, but one that left India in somewhat of a negotiating quandary.<sup>50</sup>

Ramesh's arguments seemed to recognize on the one hand that India could not stand idly by as its own environment headed toward serious degradation, but also, implicitly, on the other that India needed to be in a position to offer something positive if non-binding – including a degree of international follow-up on its implementation of commitments at the negotiating table if it genuinely wanted to play – particularly in the big

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47 See text of a conversation between Dr. Singh and Council on Foreign relations President Richard Haas, the transcript of which is dated 22 November 2009 to be found at: [http://www.cfr.org/publication/20840/conversation\\_with\\_prime\\_minister\\_dr\\_manmohan\\_singh.html](http://www.cfr.org/publication/20840/conversation_with_prime_minister_dr_manmohan_singh.html)

48 Nitin Sethi, "Jairam for major shift at climate talks", *Times of India*, 19 October 2009.

49 Aarti Dhar, "Jairam irons out differences with negotiators," *The Hindu*, 7 December 2009.

50 For an analysis of India's negotiating quandary going into the Copenhagen conference, see Dhruva Jaishankar, "Taking the Heat: Where India stands on climate change", in *Pragati*, December 2009, pp. 3-5.

leagues. In the event, India offered [voluntary] emissions goals that would be subject to international “consultation and analysis” but not scrutiny or formal review.<sup>51</sup>

Following the Copenhagen talks, widely perceived as a fiasco, Prime Minister Singh mildly deplored their “very limited” progress.<sup>52</sup> But the outcome served India’s diplomatic interests very well in allowing it to be “part of the solution,” a last-minute truncated accord, offered by the four BASIC powers and the USA and acknowledged – however reluctantly and only by taking “note” of it – by the conference plenary, and also in underscoring that India was now an indispensable negotiating partner on key global challenges such as climate change. Unlike its posture in Geneva at the WTO in 2008, where China shielded itself behind an assertive India, at Copenhagen, India allowed China to take the heat for frustrating official and NGO activists campaigning for an ambitious outcome. Moreover, India, like the other major countries, submitted its implementation plan further to the Copenhagen accord by the deadline of 31 January 2010; it noted, however, that the plan would exclude the sensitive agriculture sector.<sup>53</sup>

The follow-up conference to Copenhagen at Cancun in late 2010 restored a modicum of faith in the multilateral process for most observers. India’s participation in the conference was once again dexterous. While allowing China to bear much of the pressure on the BASIC group to accept legally binding emission cuts, the Indian negotiating team continued to lobby the developed nations for greater flexibility on technology transfers and funding of green initiatives in developing nations. The BASIC group itself faced some internal differences over the question of legally binding cuts, with China and India coming out against them and South Africa and Brazil in favour.<sup>54</sup> Nonetheless, Jairam Ramesh created significant confusion both in India and among the BASIC countries when a few days later he articulated the need for all countries to accept “binding commitments in some appropriate legal form.”<sup>55</sup> While he was roundly criticized by the Parliamentary opposition in India for “selling out” the Indian position and

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51 Evan A. Feigenbaum, “India’s Rise, America’s Interest,” *Foreign Affairs*, Vol. 89, No. 2, March/April 2010, p. 90.

52 Praful Bidwai, “Fouling up the air,” *Frontline*, 29 January 2010.

53 Express News Service, “India sends emission cut plan to the UN, leave out farm sector,” *Indian Express*, 1 February 2010.

54 Betwa Sharma, “We are not for legally binding emission cuts: Jairam,” *The Hindu*, Dec 10, 2010.

55 T. Jayaraman, “Taking stock of Cancun,” *The Hindu*, Dec 13, 2010.

jeopardising a carefully crafted working relationship with China,<sup>56</sup> some perceptive analysts warned against reading too much into his statement,<sup>57</sup> which seemed designed to create greater negotiating flexibility for India than to lock India into any irreversible positions.

On balance, many at home perceived the results for India at Copenhagen and Cancun as positive rather than negative on the global climate conferences and their limited outcome.<sup>58</sup> In contrast to its positions at the WTO in 2008, India demonstrated agility in the run-up to both climate change conferences, and dexterity during the meetings, allowing it to emerge as one of the forgers of a compromise at Copenhagen and one of the nations willing to push negotiations forward productively at Cancun.

### CHANGING WINDS: NUCLEAR NON-PROLIFERATION AND TESTING

Perhaps the prickliest thorn in India's side as far as international treaties are concerned relates to the issue of nuclear weapons. India's position on issues of nuclear non-proliferation and testing has been marked by the consistent articulation of an alternative vision of global disarmament and non-proliferation, and its diplomacy in this realm has often resorted to "high-minded moral rhetoric."<sup>59</sup> Until the so-called nuclear deal concluded between the United States and India in 2007, endorsed by others in Vienna in 2008, India had suffered through diplomatic isolation on this issue for four decades.

India was one of the earliest advocates of nuclear disarmament when it called for the inclusion of the item "non-proliferation of nuclear weapons" on the UN's agenda in 1964.<sup>60</sup> India was also involved in the drafting of the Nuclear Non-Proliferation Treaty (NPT) in the early 1960s. However, it subsequently refused to sign the treaty itself in 1968 on grounds that it was discriminatory and divided the world into the nuclear 'haves' and 'have-nots'. India's 'peaceful nuclear explosion' of 1974 served to further

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56 Priscilla Jebaraj, "Opposition slams Jairam's new climate formula," *The Hindu*, Dec 11, 2010.

57 T. Jayaraman, "Taking stock".

58 For editorial responses from two prominent Indian newspapers, see "Silver linings," *Indian Express*, 21 December 2010, and "Far from inspiring," *The Hindu*, 21 December 2009.

59 Amrita Narlikar, "Reforming Institutions, Unreformed India?" in Alan S. Alexandr off and Andrew F. Cooper (eds.), *Rising States, Rising Institutions: Challenges for Global Governance* (Brookings Institution Press, Washington, D.C., 2010), p. 120.

60 Chinmaya R. Gharekhan, "India and the United Nations," in Atish Sinha, Madhup Mohta (eds.), *Indian Foreign Policy: Challenges and Opportunities* (Foreign Service Institute, Delhi, 2007), p. 205.

isolate its position in international nuclear diplomacy, even though many of the principles India had promoted in the early 1960s – including the peaceful uses of nuclear energy and non-proliferation being a step toward universal disarmament and not an end in itself – had found their way into the NPT.<sup>61</sup>

India did not abandon its position even when the NPT came up for permanent extension in 1995. The following year, India doggedly opposed the Comprehensive Test Ban Treaty (CTBT) on grounds that the treaty did not preclude subcritical testing by nuclear weapons states. Thus India argued that the CTBT was merely a “threshold” ban and not a “comprehensive” ban.<sup>62</sup> This did not sit well with India’s vision that the CTBT should really be a “Comprehensive Nuclear Disarmament Treaty.”<sup>63</sup> Moreover, in the eyes of the world, India could not let itself be “captured” by the CTBT after opposing and avoiding the NPT for decades.<sup>64</sup> Although India did its best to prevent the CTBT from reaching the UN General Assembly for a vote, it was in the end predictably unsuccessful.

The events of 1995-96—combined with India’s perceived security threat from Pakistan’s covert nuclear weapons program (assisted by China)—precipitated India’s second round of nuclear tests in 1998. Having refused to sign the original NPT, opposed its extension, and opposed the CTBT; India technically did not violate any international agreements. However, its actions did not endear it to supporters of the global non-proliferation regime. The 1998 tests were followed by American sanctions and condemnation from all corners of the international community. Nonetheless, in 2000, President Bill Clinton made a successful and highly publicized visit to India that initiated a longer process of US-India rapprochement. India, however, remained recalcitrant on the nuclear issue. In March 2004, then foreign minister in the BJP government, Yashwant Sinha, stated:

*“It was the imposition of an imperfect non-proliferation order, evidence of which is all around us, that compelled us to make the transition from nuclear abstinence to that of a reluctant nuclear power. And, it*

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61 Narlikar, “Reforming Institutions,” p. 121.

62 Keith A. Hansen, *The Comprehensive Nuclear Test Ban Treaty: An Insider’s Perspective* (Stanford Law and Politics, Stanford: 2006), p. 39.

63 Raju G.C. Thomas, “Should India Sign the NPT/CTBT?” in Raju G.C. Thomas (ed.), *The Nuclear Non-Proliferation Regime: Prospects for the 21<sup>st</sup> Century* (Macmillan, London: 1998), p. 285.

64 Hansen, *The CTBT*, p. 42.

*was after we, as a nation, agonized over the issue for decades, that this Government finally took the plunge six years back.”<sup>65</sup>*

These words suggested a fundamental disconnect between India's vision and the reality of the global non-proliferation regime.

While a change of government in India in 2004 did not bring about a change in India's nuclear diplomacy, a shift in the second George W. Bush administration's priorities brought about a momentous development in India's relations with the international non-proliferation regime. In 2007, India concluded the '123 Agreement' with Washington that would produce an end to over three decades of nuclear isolation for India. Following intense lobbying by both the US and India, by October 2008 the deal had been approved by the International Atomic Energy Agency (IAEA), the Nuclear Suppliers Group (NSG), and the US Senate, achieving for President Bush his main positive foreign policy legacy. The agreement not only legitimised India's nuclear program and its non-proliferation record, it also opened the channels of nuclear commerce between India and other members of the NSG, most notably Russia and France.<sup>66</sup>

The India-US nuclear deal shook the global non-proliferation regime to its roots. Those in support of the deal saw it as a means of rewarding a de facto responsible nuclear power that had observed the letter and spirit of the NPT without actually signing it. India's obvious violations of the CTBT were less talked about. Supporters of the deal also argued that bringing India's civilian nuclear facilities under IAEA safeguards would be an effective way of injecting predictability into India's nuclear behaviour and locking India into the global non-proliferation regime.<sup>67</sup> Critics of the deal rightly worried about its impact on the regime itself. As one commentator observed, “it seems that India's exceptionalism and self-interest has paid off. But the more troubling issue is what happens to non-proliferation, and the long-term consequences of non-compliance in the international arena.”<sup>68</sup> India's rhetorical use of the term “responsible nuclear state” was also viewed by some as a warning sign for the international regime: “What this means for international law is the recognition that the politically

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65 Rao, “General Principles,” p. 41.

66 BBC News, “India-Russia nuclear deal signed,” 5 December 2009.

67 See Mario E. Carranza, “From nonproliferation to post-proliferation: Explaining the US-India nuclear deal,” *Contemporary Security Policy*, 28, no. 3 (2007), pp. 464-93.

68 Priya Pillai, “India and the Nuclear Weapons Proliferation,” in Patel (ed.), *India and International Law, Vol. 2*, p. 130.

savvy can and [do] affect international norms.”<sup>69</sup> Although many in India disagreed, the world viewed the deal as a decisive victory for India and a dramatic transition from the status of nuclear pariah to recognised (and responsible) nuclear weapons state.

Events following the deal moved faster than the debates surrounding them. During President Obama’s visit to Delhi in November 2010, the US became the first nuclear weapons state to endorse the idea of talks between the five nuclear weapons states (as per the NPT) and the three nuclear-armed states outside the NPT: India, Pakistan and Israel. As observed by an Indian journalist, “In doing so, India and the US have assembled the basic building blocks of a framework which has the potential to transcend the NPT, while remaining faithful to the twin goals of non-proliferation and the elimination of nuclear weapons.”<sup>70</sup> An outcome of this nature would certainly help to bridge India’s vision of non-proliferation with the rest of the world’s, and also to diminish the controversies in India and abroad over India’s opposition to the NPT and CTBT.

### GLOBAL RESPONSIBILITIES: IS INDIA READY?

The close partnership between the US and India on the nuclear deal – essentially a bilateral agreement that has launched the transformation of a decades old multilateral regime – has created some concern over India’s commitment to multilateralism. While a prominent writer in India expressed alarm at the “self-conscious revolt in India against multilateralism” that the US-India deal represented, he worried more about “how much like the US we [Indians] want to become unilateral, oriented towards hegemony more than stability of the world, and besotted with its own sense of power.”<sup>71</sup> This sentiment points to a broader trend in India’s approach to multilateral treaties, which is the tendency to eschew genuine multilateralism in favour of global governance by oligarchy. This approach not only tends to promote a very narrow conception of Indian interests, but also threatens to undermine the multilateral system as a whole.

Although reactions to some of India’s actions and positions over time no doubt overstate the tilt against multilateralism in Indian foreign policy,

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69 Fakiha Khan, “India and International Civilian Nuclear Energy Law,” in Patel (ed.), *India and International Law*, Vol. 2, p. 156.

70 Siddharth Varadarajan, “In a first, India, US for dialogue of all nuclear weapon states,” *The Hindu*, Nov 09, 2010.

71 Pratap Bhanu Mehta, “Five Balancing Acts,” *Seminar*, January 1, 2007.

they do raise two important questions relevant today, as India emerges as a premier global interlocutor. First, what kind of power does India aspire to be, and how will it engage with others in years to come? Second, is the Indian foreign policy establishment attuned to engaging with the multilateral system not just on India's own terms but also on ones that actually will appeal to others and contribute to positive outcomes?

In 2003, in the run up to the American invasion of Iraq, Sonia Gandhi wrote: "Many in the United States are impatient with multilateralism, but in today's interdependent world there is simply no alternative to working in concert and collaboration with each other."<sup>72</sup> In 2004, Manmohan Singh outlined India's global philosophy, which he described as "cooperative pluralism" enshrined in the Sanskrit phrase and Hindu philosophy of *Vasudhaiva Kutumbakam* – the whole world is one family.<sup>73</sup> These statements, taken together, suggest a cooperative outlook ideally suited to multilateral institutions, the desire to transform them constructively, and a recognition that with greater power and influence comes responsibility in international affairs.

Nonetheless, there exists a gap between Prime Ministerial and other Indian aspirations for a more genuinely multilateral management of international relations on the one hand, and on the other India's negotiating position and style in a variety of forums and issue-by-issue. This gap is emphasised by a commentator on climate change: "In an ironic and to most Indians quite disturbing turn, India is increasingly portrayed as an obstructionist in the global climate negotiations. How did a country likely to be on the frontline of climate impacts – with a vast proportion of the world's poor and a reasonably good record of energy-related environmental policy and performance – reach this diplomatic *cul de sac*?"<sup>74</sup> The story is the same in trade – India holds up its economic liberalisation as a major achievement in facilitating the free flow of goods and services across borders, yet gets saddled with the blame for obstructing the Doha Round. Similarly on nuclear technology, India trumpets its record in non-proliferation and nuclear safety yet is excluded for three decades from multilateral access to nuclear technology and is consistently chided for refusing to sign up to the NPT and CTBT.

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72 Sonia Gandhi, "Conflict and Coexistence in Our Age," *Seminar*, February 7, 2003.

73 Manmohan Singh, "India and the World," 5 November 2004.

74 Navroz K. Dubash, "Climate Politics in India: How Can the Industrialized World Bridge the Trust Deficit?" in David Michel and Amit Pandya (eds.), *Indian Climate Policy: Choices and Challenges*, (The Henry L. Stimson Center, Washington, DC: 2009), p. 49.

Domestic politics play a key role in determining India's positions on "hot button" international issues. And domestic politics in India have largely been geared toward constraining the positions of its negotiators, or pressuring them toward intransigent and dogmatic positions (or holding patterns) on key issues, for fear they may be seen as insufficiently sensitive to parochial national interests. Despite India's new membership of the multilateral power elite, the domestic chorus on multilateral challenges too often remains a resounding "No" – no increase in bound rate tariff triggers, no legally binding caps on emissions, no commitment to refrain from nuclear testing. Negotiators themselves, while they are often highly knowledgeable and sophisticated in the intricacies of multilateral agreements, are not equipped or mandated to pull domestic constituents along, at a time when India's domestic politics are getting more complex by the day.

While domestic politics constrain in one way, India's own ambitions and diplomatic strategies constrain in another. In every regime examined in this paper, India has either managed, or is trying, to become a member of the small group of great powers with agenda setting powers and the ability to influence decisions. Permanent membership of the UNSC, the Five Interested Parties at the WTO, the BASIC group of countries in climate change negotiations, and the India-US nuclear agreement all point to an Indian desire for a seat at the high table. However, without constructive negotiating positions or a focus on the underlying issues that a regime is trying to address, India remains ill equipped and unable to do its part at the high table. In most cases, India has focused less on the management of the multilateral system and more on very narrow conceptions of its national interest, often at the cost of the success of the regime in question (especially in trade and nuclear issues). As a result, despite its best intentions, India is not viewed as a fully responsible global player yet.

India therefore finds itself neither able to pull its domestic constituents along on multilateral diplomacy, nor able to demonstrate enough weight in the multilateral system to push its domestically determined agenda through without being labelled a spoiler or obstructionist. Delhi's growing drive to break free of the developing country mould and join the major powers in managing the multilateral system thus creates a tension and a degree of unpredictability in how India's positions are likely to evolve during international negotiations. Nitin Desai colourfully points out that the final Copenhagen agreement was achieved by the two "20% players" (the US and China in terms of carbon emissions) while India, which was among

the “5% players” (with Japan and Russia) was only needed to provide some extra ballast on the Chinese side along with the two “2% players,” Brazil and South Africa.<sup>75</sup> Given that the future of the international system is likely to be determined to a significant degree by Sino-US understandings and disagreements, India will likely continue to straddle as many multilateral divides as possible to keep its options open while its weight in international relations grows.

## CONCLUSION

Today, India's diplomacy is overwhelmingly bilateral in nature and generally quite successful in that realm. Multilaterally, it is organised more around smaller, plurilateral groupings of several meaningful states, or regional bodies.<sup>76</sup> This may be because as global challenges like climate change come to the fore, the responsibility to shoulder a part in their resolution, sometimes at real financial cost, is something other countries – including poorer developing countries – will expect India to take on. And India has not yet thought through the extent to which it is yet able and willing to take on such extensive and potentially expensive obligations. The voluntary, non-binding route in defining its commitments is more attractive for now, but as its economy and weight grows further, it will not find it easy to stick to this path. Balancing domestic politics with a desire for international status – both economic and political – will be India's challenge in the future.

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75 Nitin Desai, “When two's company,” *Times of India*, 4 January 2010.

76 G. Parasarathy points out, rightly that the West was very slow to notice this evolution of Indian foreign policy, in particular its growing engagement with ASEAN and other Asian actors. (Conversation, February 2010)