

India's Negotiation Strategy in the Climate Change Conference of Parties

Sanjay Srivastava

Department of Political Science, Banaras Hindu University, Varanasi, India
✉ sanjaychanakya@gmail.com

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Abstract: In this research, author addresses the question of negotiation analysis of the climate change talks. The central variable is India's negotiation strategies from Rio Earth Summit (1992) to Katowice Conference of Parties (CoP, 2018). This long span of negotiation also marks the era of globalization and global power shift with the rise of two Asian powers: India and China. India's ascendance and changing structure of global politics also notices a change in India's foreign policy and consequent change in negotiation strategies commensurate to its rising power status, such as India's changing stances in the negotiations from a "naysayer" to a "partner" of the climate change collective action. The other derivative enquiries delineated here are: India's global coalitional diplomacy and the drifts in style and substance in negotiation strategy that have occurred in recent times.

Keywords: India; Climate Change negotiations; Negotiation analysis; Conference of Parties.

Prologue

The climate change mitigation is one of the most challenging tasks of our times and tellingly shapes the future of humankind's coming generations. The international community have shown concern about the rising level of Greenhouse Gas (GHG) emission and felt its regulation a pressing need. The environmentalists through their researches such as *Silent Spring*¹ and *The Club of Rome Report*² demonstrated the grievous issue of degradation of environment and its consequence on the life on earth. Responding to these concerns on environment, the discourse began in the international society, sprawling over five decades including the United Nations Conference on Human Environment

(Stockholm, 1972), UN General Assembly sponsored Intergovernmental Negotiation Committee (INC, 1990) on climate change mitigation culminating into the UN Framework Convention on Climate Change (UNFCCC) and several Conferences of Parties (CoP). India, right from the beginning, by actively crusading to protect the interests of developing countries became a lead negotiator in the environmental talks, the image that resonates well with its crusades in the GATT negotiations, however with somewhat negative tinge. India resorted to global coalitional diplomacy and owing to the changing nature of world politics, global power shift and its emerging power status, India's negotiation strategy also transformed from an intransigent negotiator to a collaborative partner.

¹ Rachel Carson, an American marine biologist, published *Silent Spring* in 1962 to demonstrate the adverse environmental effects of overuse of pesticides.

² The Club of Rome Report in 1972 laid down the narrative of Limits to Growth; report's computer simulation suggests that the earth's weighing capacity is limited.

This paper is divided into four sections. The first section deals with negotiation style of India with the tinge Third Worldism; the next two sections pertain to India's negotiation strategy during INC and from Rio (1992) to Katowice (CoP), respectively, while the last section contains concluding remarks.

India: The Crusader

India's negotiation strategy has been that of a defender of the interests of the global south and leader of the Third World. Be it the GATT rounds or the WTO Ministerial meetings or be it the talks on nuclear non-proliferation, India has been a major saviour of the developing countries' interests and often been called the "naysayer" or the country which couldn't learn to say yes in multilateral negotiations. Seemingly symmetrical level of economic development of Asia, Africa and Latin America, as a consequence of colonialism, made India to join hands with these countries in multilateral negotiations with a 'Third World rhetoric' (Narlikar, 2006). However, this inflexible negotiation strategy was a subset of the then India's foreign policy mainly based on the Non-aligned Movement (NAM), Third Worldism, Afro-Asian Unity and G-77. The strict distributive strategy³ that India applied in the GATT and WTO negotiations couldn't deliver much, because the global coalition diplomacy failed to sustain as often the members of the coalition were bought-off by the big powers, such as India propelled G-10 couldn't stop the services being brought into the ambit of new trade regime or "the Grand bargain" to bring the intellectual property rights into ambit of the GATT and acceptance of Doha Declaration were the failure of India's coalitional diplomacy and strict distributive strategy. 'The only evident success was the G-20 in the Cancun Ministerial' (Srivastava, 2008) where the big powers could not break the G-20 coalition.

In the beginning of the environmental negotiations, India asserted that the efforts to protect environment

will circumscribe India's national plan of economic development and it's a new western variant of neo-colonialism. In a straight away "nay-sayer" stand, the former Indian Prime Minister Indira Gandhi in 1972 exemplifies – "When they themselves feel deprived, how can we urge the preservation of animals? How can we speak to those who live in villages and in slums about keeping the oceans, the rivers and the air clean when their own lives are contaminated at the source? The environment cannot be improved in conditions of poverty (Gandhi, 1972)." She also rejected the dictum that population growth is also a cause of pollution. The last line of the comment above brings India close to the strict distributive strategy – India simply refusing to proactively take up the negotiation and questioning the very logic of the proposition. However, by no means the above comment of Mrs. Gandhi is wrong⁴. The nations who missed the industrial revolution and were colonized for a long time have a genuine case in seeking recourse to international equality and justice and India is no aberration. The strict distributive strategy of India was factored by domestic compulsions too, for example Mrs. Gandhi's populist slogan "Garibi Hatao" (eradicate poverty) was an election gimmick much influenced by the dependency theory plays prevalent in the then Third World countries. The environment protection regimes were totally antithetical to India's approach to development. Still, a mixed strategy⁵ instead of the strict distributive strategy would have been a better choice to broaden the horizon of negotiations and getting flexible on some aspects while inflexible on the indispensable interests.

Run-up to the Convention: The Rio Earth Summit

UN General Assembly, in December 1990, set up an Intergovernmental Negotiation Committee (INC) to decide on a Framework Convention on Climate Change, for signature at the Rio Earth Summit in June 1992.

³ Distributive Strategy: A party's strategy is 'strictly distributive' if it

- (a) criticizes the other country's or countries' actions or arrangements, blames them for the problem under discussion;
- (b) attempts to exclude from the agenda issues on which her own country would probably have to make concessions; and
- (c) rejects or ignores demands for concessions or delays their consideration (Odell and Mena L.N. 2004: 31–32).

⁴ She argued further, 'many of the advanced countries of today have reached their present affluence by their domination over the other races and countries. They got a head start through sheer ruthlessness, undisturbed by feelings of compassion or by abstract theories of freedom, equality and justice'. (DOE, 1984; 20,23)

⁵ *Integrative Strategy*: A party's strategy is 'strictly integrative' when it proposes negotiations designed to benefit both or many sides, usually aiming to agree on a joint approach to a common problem.

Mixed or Combined Strategy: A party's behaviour in a conflict or negotiation is a 'mixed' strategy if distributive and integrative tactics are mixed in some proportion, either simultaneously or in a sequence (Odell and Mena, 2004).

The intellectual foundation of Indian diplomacy in the run-up to Rio Earth Summit was laid down in the report called “Global Warming in an Unequal World” prepared by the Centre for Science and Environment (CSE), New Delhi. The report held developed world responsible for most of the environment degradation and laid down the narrative of “historical responsibility”. Further propositions such as historical emissions rather than the current emission flows should be the criterion for fixing responsibility of GHG emission, “right to development” and “right to eradicate poverty” were successfully propounded in the report and became buzz narratives in the climate change negotiations for years to come. Since the early days of the UNFCCC, India has promoted the principle of an equitable access to carbon space at the global level and has been one of the strongest promoters of a per capita approach to GHG emission reductions.

To push through these narratives the global coalitional diplomacy was a significant feature of India's negotiation strategy through the G-77 and China (G-77/China); however till the third session of the INC only as the divergent interest of the developing countries were detrimental to cohesion of the group and in the fourth session of INC, G-77 members were allowed to present their separate cases. Although by this time the G-77/China successfully communicated that they will not accept any quantified limitations to their GHG emission and any other proposition circumscribing their economic development. The G-77 had two sub groups namely the OPEC (Oil Producing and Exporting Countries) and the AOSIS (Association of Small Island States), both often acted independent of the G-77 and they advocated their own interests. Squarely against G-77/China was the OECD (Organization of Economic Cooperation and Development) mostly comprising developed countries. Another group comprising India – BASIC (Brazil, South Africa, India, China) also worked from 2009 to 2013. In the INC, tough bargaining between groups took place on the various aspects of UNFCCC, such as – Preamble, Principles, Commitments, Sources and Sinks, Targets and Time Table, Joint Implementation and mechanism and Technology Transfer.

On each and every term used in Preamble of UNFCCC contestation was there mostly between G-77/China and OECD. The G-77/China successfully insisted to include historical responsibility and differential treatment to developing countries in the third paragraph of the Preamble but they failed to include the notion of “main responsibility” of developed countries to combat climate change in wake of tough resistance from them.

The same paragraph also included on India's behest the mention of per capita emission of the developing countries and principle of common but differential responsibilities (CBDR); however the CBDR was neutralized by the developed countries by arguing that the GHG emission of developing countries will soar up gradually. The principle of sovereignty on behest of the developing countries was also included in the preamble. The major loss of the developing countries was the non-inclusion of the notion of financial support and technology transfer to the developing countries, in the preamble. Much arm twisting was also seen on the issues of creating an article on general principles proposed by China and supported by the G-77, the US opposed it and tried to dilute it by substituting “state” by “party”. The AOSIS was able to include a principle acknowledging the special circumstances of the parties that are vulnerable to the adverse effect of the climate change, without any opposition. Conflict over right to development proposed by the developing countries was included in the principles but with changes suggested by the developed countries to include the environmental concerns. On the issue of General Commitment there was an intense debate between G-77 and OECD, as countries like India were of the view that the general commitment on national planning and its international review shouldn't include the strategies as formulation of strategies was their sovereign matter and shouldn't be intruded by the convention (Bodansky, 1993).

On the issue of commitments, at the fourth session in Geneva, the G-77 members fell apart, the OPEC wanted a weak provision on commitments regarding sinks and sources while the AOSIS wanted a strong regime on commitments. Finally, both OECD and AOSIS presented their drafts separately and G-77 ceased to work as a group on the plenary; however, in the fifth session on time-table the G-77/China came up as a group again and presented their formulation on targets and time table against the stiff opposition from the US. On the bargaining track of financial resources and technology transfer, India demanded that special mention should be made to the “new and additional funding”, to help developing countries to implement the stipulated measures in mitigating climate change. The proposal was finally included in the convention after opposition from the US, Japan and European countries, and new term included in the convention is “appropriate financial mechanism”. Later the G-77 was able to get the “new and additional” words included in Article 4 (3) of the convention (Bodansky, 1993).

Beyond Rio: Negotiations in Conference of Parties

The highest decision-making body of the UNFCCC is the Conference of Parties (CoP). The first CoP was held in Berlin in 1995, with the provision of holding a CoP every year; till now 24 CoP have been held, the last being in Katowice in 2018.

Like the INC sessions India continued to depend on global coalitional diplomacy in CoP and joined hands with the G-77/China; however, mostly it oscillated between G-77/China and BASIC (Brazil, South Africa, India and China) from 2009 to 2013. It worked closely with the LMDC (Like Minded Group of Developing Countries) after 2013. Often, India presented its proposals independently and got the support from the members of various groups. As member of the G-77/China, in the first CoP-Berlin Conference (1995) India formulated the first draft decision on adequacy of commitments, and held whole responsibility of climate action on countries listed in Annex 1 of the convention; the draft was called the Green Paper and this group was called the Green Group. The Green Paper prescribed that the developed countries should cut the emission of CO₂ by 20 percent in next 10 years. However some of the points were not acceptable to the EU and later CoP President Angela Merkel through the shuttle diplomacy resolved the conflict between OECD and Green Group and Berlin Mandate was finalized. It was held that the commitments of Annex 1 parties will be decided by a protocol, and whole process shall be guided by the legitimate needs of the developing countries for sustained economic growth and the right to promote sustainable economic development. It expected the widest cooperation of all countries on the principle of CBDPRC (ENB, 1995).

In the second CoP at Geneva (1996) the G-77/China tabled its own draft decision that asks the CoP to define funding requirements from the Global Environment Facility (GEF) for implementation of the UNFCCC (ENB, 1996). India called for the operationalization of FCCC provisions relating to state-of-the-art environmentally sound technologies (EST), in the new legal instrument. India, on behalf of the G-77/China, also reiterated its objection to the concept of emissions trading, stating that it is extraneous to the Berlin Mandate and would not lead to GHG emissions limitation and reduction. India stressed that trading

should be based on equitably allocated entitlements (ENB, 1997).

On voluntary commitments for non-Annex I Parties, India said that the article would create a new category of Parties not established in the Convention (ENB, 1997). In a clever ploy, India and China led off a debate on emissions trading, ambushing the US and succeeding in delaying the pace at which trading will come into effect. In doing so in the closing hours of the negotiations, they signalled decisive opposition to the article on voluntary commitments and exhausted all proponents. As a result, the article on voluntary commitments was dropped (ENB, 1997).

However, US tried to use the cleavages in the G-77/China on Clean Development Mechanism (CDM). It became the focus of the biggest trade-off of the negotiations, according to one observer. Even in the face of China and India's continued resistance on CDM, the US got the support of Mexico, the Republic of Korea and others (ENB, 1997).

By the time of CoP 15 at Copenhagen in 2009, there was pressure on emerging economies like India, China, Brazil, South Africa to get off the Kyoto exemptions applicable for the developing countries. The emerging economies joined hands and they formed BASIC group. Earlier in Bali CoP in 2007, India accepted that developing countries should participate in the climate change mitigation on a voluntary basis as per their capabilities. India formulated its domestic climate change combating plan in 2008 and drifting from the earlier stand announced voluntary targets to reduce the emissions intensity of its GDP by 20-25 percent against 2005 levels by the year 2020. This negotiating position was 180 degrees invert of its stand in the Kyoto Protocol negotiations. However, Mr. Jairam Ramesh, India's Minister for Environment and Climate Change was criticized badly for India deviating from its traditional position on the negotiations as the saviour of the developing countries. Jairam Ramesh defended himself that Copenhagen Accord doesn't impinge upon India's autonomy. Later due to sharp differences with Jairam Ramesh one of the significant negotiators Chandrashekhar Dasgupta was dropped from India's negotiating team. Critics of Ramesh had a rude awakening⁶ in 2010 Cancun CoP when, conscious of its rising power status, India further drifted away from its stand on climate change negotiations; however that change was more in strategy when Jairam Ramesh

⁶ The term 'Seismic shifts' has been used by a scholar to show the big drift (Mohan, 2017).

announced that all countries should take legally binding commitments under a protocol. Thus, Ramesh held that India should delink itself from G-77/China and take up legally binding commitments without guarantee of the technology transfer and financial support. Reason cited by Ramesh for this drifting away was—the old strategy takes away India's chances of getting a permanent seat at the Security Council. The changing negotiation strategy of BASIC countries also had an impact on India's stand; especially China and Brazil were ready to act more like an emerging power with somewhat greater responsibilities in combating climate change. However, after tremendous opposition from Chandrashekhar Dasgupta, Prodipto Ghosh and even Prime Minister's special envoy Shyam Saran, he yielded and held that India wouldn't compromise on following – India will not accept the legally binding emission cut and international review of the mitigation measures not supported by international finance and technology; although, India is ready to cut its emission intensity by 25% from its 2005 levels by 2020. Therefore, in a democratic setup like India, drifting away from the traditional line not only gets opposition from politicians but also from bureaucrats. Finally, the Copenhagen accord which had a blemish of being the result of an oligarchic decision making was not adopted by the CoP 15. Even in the Cancun CoP in 2010, Ramesh continued with the same tenor and his proposal is said to have effect of creating a new category of major emitters undermining the per capita principle, his proposal was not accepted by the developing countries though. The minister also set aside India's longstanding demand of equal per capita access to international atmospheric resources and replaced it by "equitable access to sustainable development", which was later included into Cancun Agreement (UNFCCC, 2011, Para 6). India, further compromised with its traditional position when the CBDR and equity were dropped from the Durban Agreement or more technically the Durban Plan for Enhanced Action which replaced the Bali Action Plan and further blurred the distinction between developed and developing countries and India signed the agreement. This was a major shift in the climate change negotiations which went in the way the OECD wanted it to be. An action plan without the mention of CBDRRC, historical emission, development priority principles and even without any guarantee to international technology transfer and financial support; and all these even when developed countries didn't do their capacity complying to the obligations accruing out of the Kyoto protocol. Apparently, India with its newfound image of an emerging power didn't want to

restrict itself to the Third World rhetoric and decided to widen its fulcrum to embrace the new global aspirations from India. The resetting of negotiation strategy brought India closer to the US and it became a significant player in G-20. The close strategic partnership with the US and alignment in climate change negotiations fulfilled US' preconditions for supporting India for a permanent seat in the Security Council. 'In Warsaw CoP (2013), India once again pleaded that the equity is an inalienable and absolute right' (Gupta et al., 2015). However the equity rhetoric remains masquerader only, but India is not likely to take up binding commitments unless others also do so. In the Paris CoP (2015), the new government led by Prime Minister Modi continued India's agenda setting negotiation strategy – on CoP 21 – Paris, Indian Minister Javadekar added that 'the principle of CBDR for the Parties had been applied to all the pillars of climate action – mitigation, adaptation, finance, capacity building, technology and transparency. India has endorsed the outcome text of the Conference of Parties (COP 21). It sets a binding 2 degrees Celsius target for increase in the global temperatures. Minister said that all the points raised by the Indian delegation had been included in the text' (DownToEarth, 2015). India also announced its plan to start an International Solar Alliance as alternate source of energy.

At Katowice CoP, India along with the developing states tried to ensure that the rulebook to Paris Agreement adheres to the letter of the agreement even if it did not stay entirely loyal to its spirit. Katowice did deliver a set of rules that will monitor countries deeply for their delivery against the nationally-determined actions, particularly on reducing greenhouse gas emissions.

Countries could not, however, agree to the rules for the operation of the global market for trading in greenhouse gas emissions under the Paris Agreement. The rules for the market mechanism were deferred to 2019, or perhaps 2020, just before the Paris Agreement gets implemented, starting 2021 (DownToEarth, 2018).

Conclusion

India's negotiation strategy in the climate change talks starts with a traditional stance of Third World rhetoric and global coalitional diplomacy in the runup to the Rio Earth Summit (1992). However, the global coalitional diplomacy through G-77/China had a limited relevance as the divergent interests among the members failed to keep a cohesion within the group; soon the OPEC and AOSIS had their own independent proposals on the

table. Moreover, India didn't find it necessary to ensure the cohesion of the G-77 (as it did for G-20 in the WTO Cancun Ministerial) due to its rising power status which demanded a more cooperative instead of intransigent role in protection of global commons as well as India's new US embrace which demanded more pliable strategies on the part of India to get in alignment with the US global strategic game plan. A significant shift in India's negotiation strategy was marked at Copenhagen CoP where the Indian Minister Jairam Ramesh drifted away from the traditional Indian line of pleading CBDRRC and equity and supported the proposition for legally binding commitment for all parties. The occasion also saw an unprecedented rift between the Minister and his cohort, the latter expressed their dissent openly. Gradually, Indian diplomacy consolidated its agenda setting role instead of stonewalling the negotiations in favour of the developing countries, in the following CoPs. Many scholars put forth explanations to the cause of this drift; however the most plausible explanation is the Minister's (Jairam Ramesh) own traits and India's quest for a permanent seat in the UNSC which required alignment with the US stand in the climate change and nuclear non-proliferation negotiations. Besides this the rising power status of India also demanded a negotiation strategy making India a partner in solution and not stonewalling negotiations.

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