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The U.S.-India Nuke Deal: U.S. Needs and Ambitions

by Dr. Dheeraj Kumar

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Introduction

The United States-India Peaceful Atomic Energy Cooperation Act of 2006, also known as the "Hyde Act," is the legal framework for a bilateral pact between the United States and India under which the United States will provide access to civilian nuclear technology and access to nuclear fuel in exchange for International Atomic Energy Agency safeguards on civilian Indian reactors. This deal has been most controversial and debated for the past two years.

There are five major differences between the United States and India related to some clauses of Hyde Act:

1. The Return Clause
2. Reprocessing of Spent Fuel
3. Nuclear Testing
4. Lifetime Fuel Guarantee
5. Fallback Safeguards

For resolving these differences, India has to conclude a bilateral 123 agreement with the United States, engage the IAEA, and seek changes to the rules of the forty five member NSG. Other objections and obstacles to the deal from the Indian side are as follows:

- India is going to compromise with national security interests pertaining to its nuclear deterrent.
- It will likely lead to energy insecurity in India in the case that the United States withdraws its support or does not supply the technology and sufficient material in time.
- Disagreement of coalition Left parties with the deal on the grounds that it is against communist China.

It is clear, by now, that the main obstacle to the signing of the nuke deal comes from the left parties. Their green signal can make it possible to the Manmohan Singh Government to ride the Civil Nuclear Deal with the United States. But it seems almost impossible observing the recent outcome of the talks between the UPA government and the left parties.

The United States sees this Civil-Nuclear deal with India as the fulfillment of a longstanding drive to bring India under the global non-proliferation regime, though indirectly.

As R. Nicholas Burns, Under Secretary of State for Political Affairs, told the Asia Society in New York on 18 October 2005, "India has agreed for the first time in thirty years to take on key global non-proliferation commitments... Without this agreement, India, with its large and sophisticated nuclear estates, would continue to remain unregulated by international rules governing commerce in sensitive nuclear technologies."

The agreement also transforms what had been one of the most divisive issues in Indo-U.S. relations for the past thirty years into a new opportunity for cooperation. "This will bring India into the international nonproliferation mainstream and open new doorways for a cleaner and more secure global energy future," Burns said. "It also will allow India to develop much more quickly its own civilian nuclear power industry, reducing demands on the world energy market... U.S.-Indian cooperation on nuclear energy will therefore strengthen the international order in a way that advances the interests of both the nuclear and the non-nuclear signatories of the Non Proliferation Treaty."^[1]

The 1990s convinced many reasonable people that India would never formally and unilaterally cap its nuclear arsenal. The United States learned that denuclearizing India was an unachievable objective: India insisted that its own disarmament would require global elimination of nuclear weapons, and its unwavering position left little reason to doubt that.

After India conducted a series of nuclear tests in 1998, the United States began a fundamental reexamination of its policy. Yet there were other options that might have been more carefully explored. Might India have agreed to set a future limit on its stockpile of nuclear materials? Might it have agreed to subject all future power reactors to inspections? Might it have passed legislation deepening its unilateral moratorium on nuclear tests? The U.S. administration did not ignore these possibilities, but it ultimately made clear to New Delhi that it was willing to open nuclear cooperation even if India refused additional restrictions. That decision reflected a certain realism about the political situation in India, as many on the Indian right oppose any restrictions on the Indian nuclear program.

The Bush administration made a strategic judgment: a stronger U.S.-Indian relationship would greatly improve America's position in Asia and the world, but American barriers to nuclear cooperation made stronger U.S.-India ties much harder to achieve. It offered India civil nuclear cooperation. Dealing more directly with India on its nuclear program could, many judged, restrain Indian nuclear activities, yield benefits in controlling sensitive Indian exports, and help prevent nuclear war on the subcontinent.

At the same time, the United States was driven by a desire to work with India on a broader, strategic level and judged that the nuclear issue was a thorn best removed, though not at any cost. "A better U.S.-Indian relationship could help the United States more effectively combat terrorism; like America, India has suffered from terrorist attacks, and working more closely together, each country might learn from the other's experiences... Meanwhile as U.S. policy increasingly focused on promoting democracy worldwide, the appeal of a deeper relationship with the world's largest democracy was undeniable," writes Michael A. Levi and Charles D. Ferguson.^[2]

What the Carnegie Report Says:

The United States must align with India because:

- By 2015, it will have the fourth most capable concentration of power.
- It will be among the five major economies in twenty-five to fifty years.
- It can be a counterfoil to China.
- It can stabilize the region littered with failing states.

The rise of India on the global stage is no longer a question but an answer. The United States must thus shed old inhibitions, adopt new attitudes and forge ahead with India because it is in America's interest.

Tellis, a senior associate at the Carnegie Endowment for International Peace, looks at India with open eyes and dares to call for radical changes—on the American side. *India as a New Global Power: An Action Agenda for the United States* breaks the mold of the predictable, the comfortable, the merely tinkering-with-policy attitude that managed to obscure President George Bush's ideas for India in the first term.

During Bush's first term, Robert Blackwill, the former U.S. Ambassador to India, forced many positive changes in U.S. policy despite stiff resistance, with Tellis as his advisor in New Delhi.^[3] Richard G. Lugar, Chairman, Senate Committee on Foreign Relations, in the Opening Statement for Hearing on U.S.-India Civilian Nuclear Agreement on April 5, 2006, said: "The India nuclear deal is one of the most ambitious foreign policy initiatives to come before Congress in many years... I believe that we will find little argument in Congress with the general premise that the national security and economic future of the United States would be enhanced by a strong and enduring partnership with India."

Our nations share common democratic values and the potential of our economic engagement is limitless. The progress made by India in the last decade is one of the world's major success stories.

With a well-educated middle class that is larger than the entire U.S. population, India can be an anchor of stability in Asia and an engine of global economic growth. Despite this success, the Indian government recognizes that much of its growing population still lives in poverty. To overcome these conditions, it will need more trade, more scientific and technical cooperation, and most of all, more energy.

India's energy needs are expected to double by 2025. The United States has an interest in expanding energy cooperation with India to develop new technologies, cushion supply disruptions, cut greenhouse gas emissions, and prepare for declining global fossil fuel reserves. "The United States' own energy problems will be exacerbated if we do not forge energy partnerships with India, China, and other nations experiencing rapid economic growth," noted Lugar.^[4]

The political significance for the United States of this crucial deal lay in the combination of the following factors:

- The NPT, NSG and other associated restrictive regimes on nuclear affairs, primarily aimed at India, failed to arrest the emergence of India as a nuclear weapons power.
- India also had created an extensive nuclear infrastructure with a formidable potential.
- The NPT had become a redundant feature of the international system and out of sync with existing global strategic realities.

Both the Clinton and the Bush Administrations had come to a similar conclusion, that in the absence of a roll-back of India's nuclear program, the next best political option was to bring India's future nuclear activities within IAEA monitoring. Both believed that this would ensure that in the future, India's nuclear expertise did not flow to any "rogue states" and endanger U.S. national security interests.

The Bush Administration after examination of global strategic realities and India's burgeoning economic and industrial potential and her power attributes dictated an imperative that United States long term national security and strategic interests in the twenty-first century would best be served by a reinforced strategic partnership with India. "Politically, the major aim of this deal for

the United States was to ensure that with a massive boost in civil nuclear power generation, India was to be no longer dependant on hydro-carbons on politically unstable regions or on countries with which the United States has concerns about," wrote Dr. Subhash Kapila in his article "United States-India Civil Nuclear Deal Reviewed" for the South Asia Analysis Group.^[5]

Within hours of Bush arriving from the subcontinent in March 2006, Under Secretary Burns made an effective sales pitch for the deal at the influential conservative think tank, the Heritage Foundation. Burns said the Bush administration was "very proud" of the pact, that by committing to declare 14 of its 22 nuclear reactors as civilian, India has been brought into the "non-proliferation mainstream" without according it the status of a nuclear weapons state.^[6]

Congressmen Hyde and Lantos crafted their bill (as called the Hyde Act) to keep it safe from "killer amendments" they had anticipated from some committee members. In the end, just three amendments were adopted. Prior to the vote, Lantos noted, "The legislation will not please everyone in its entirety... Indeed, a non-binding clause says the United States must 'secure India's full and active participation' in its efforts to 'dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction.'"

The "statement of policy" section of the bill, though non-binding, also notes the United States will work to achieve a moratorium on the production of fissile material for nuclear explosive purposes by India; and secure India's full participation in the Proliferation Security Initiative.

Nuclear transfers can be terminated if India makes any "materially significant transfer of nuclear or nuclear-related material, equipment, or technology that does not conform to NSG guidelines."^[7] Further, "Once the deal is in place, India's commercial nuclear interactions with the United States, as well as with any other country, will be firmly controlled from Washington via the stipulations of the Hyde Act, enforced through the stranglehold the United States retains on the Nuclear Suppliers Group," as some Indian scientist appealed to the government against the Deal on July 18, 2008 in Mumbai, as reported by PTI and which appeared on *Outlookindia.com*.

Any argument to the effect that the Deal will be governed only by the bilateral 123 Agreement is untenable, because this Agreement in turn is anchored in U.S. domestic laws, which include the Hyde Act. The Hyde Act prohibits the U.S. administration from directly or indirectly (through the IAEA or other countries) assisting India with life-time fuel supplies after suspension of the Deal. If India buys nuclear power plants from the United States, these would be under full-scale inspection of the IAEA, thus India cannot divert anything from these plants for defense purposes. India will not get the reprocessing plant, without which it cannot manufacture nuclear weapons. If the above concerns prove to be true, it will satisfy more the U.S. ambitions regarding the Deal.

Current analysis says India is likely to be among the five major economies in the first half of this century and will overtake Japan, Germany, Britain and France at some point in the next 25 to 50 years. "The record thus far amply substantiates the claim that India will be one of Asia's two major ascending powers. It is expected that the Indian economy could grow at a rate of seven to eight percent for the next two decades. If these expectations are borne out, there is little doubt that India will overtake current giants," as Tellis testified in the House of Representatives.

In the Carnegie report, Tellis quotes an internal CIA assessment where countries are ranked for national power—weighted combinations of GDP, defense spending, population and technology growth. By 2015, India will have the fourth most "capable concentration of power," after the United States, EU and China. The CIA analysis also calls India the most important "swing state" in the international system—a country that could tilt the balance between war and peace, between chaos and order. The National Intelligence Council, CIA's brain trust, compared the emergence of India and China to the rise of Germany in the nineteenth century and the United States in the twentieth century in *Mapping the Global Future*, a public report.^[8]

The opening up of the Indian civilian nuclear sector offers huge opportunities for the Americans. Ron Somers, president of the U.S.-India Business Council (USIBC), believes that "India's nuclear market will require an FDI of \$100 billion, which will now be open for U.S. firms, and can create a potential 2,70,000 American jobs over the next decade." The United States can easily grab a 40 percent share of this pie. "The U.S. firms don't want to lose time and they have obvious intentions to understand our nuclear power program," observed S.K. Jain, CMD, Nuclear Power Corporation (NPC), while commenting on the American delegation that visited India two weeks before the Senate-Congress conference in Washington to approve the bilateral deal. The U.S. Under Secretary of International Trade, Franklin L. Lavin, agrees: "I have advised American firms to listen to and understand the operating style, technical requirements and safety needs of Indian utilities." In February 2006, the United States announced its intent to "work with other nations... to develop new proliferation-resistant recycling technologies." Admits Joe O. Neuhoff, director, U.S. Department of Commerce, "The U.S. is witnessing a new nuclear renaissance."

If the bilateral treaty is cleared by the IAEA, NSG and finally by the U.S. Congress, the Americans will be in a position to reap the benefits. For one, they can sell new reactors. Explains Vijay Sazawal, director, USEC, "India wants to produce 10,000 MW from foreign reactors by 2030. At \$1.5-2 billion per reactor it's \$20 billion worth of business." Adds William Cummins, VP, Westinghouse Electric: "Unlike the current Indian reactors, ours don't reprocess fuel, which is banned by U.S. laws and frowned upon by the IAEA as reprocessing can lead to proliferation. The former are uneconomical too."

Others like USEC, a U.S. supplier of enriched uranium, will focus on selling "fuel that India will have to import" for the new light-water reactors. "Today, India negotiates turnkey projects to buy the fuel and the reactor together. We'll encourage it to buy them separately, as most western nations do to get better deals. We'll work on the Indian mindset to wean them away from package deals," says Sazawal.[\[9\]](#)

If India sets up ten large size nuclear power plants, which is its intent in the next fifteen years, India will import technology and hardware from the United States for at least half of these projects (technology for the remaining may come from elsewhere). Each of these plants at a green field site will cost about \$4 billion. In short, orders worth \$15-20 billion could be placed with U.S. companies in the next six to eight years. The remaining orders may go to France, Germany, Canada and UK. "Funds for these installations will come to India either in form of FDI or soft and commercial loans. Banks and equipment manufacturers abroad will be delighted to make this amount available to India. In return India will pay it back with goods and services export, in the same way China did it for the past 25 years. It is a win-win situation for the U.S. lenders and U.S. suppliers. Further expansion of business dealings on both sides will follow."

Another example of emerging Indo-U.S. cooperation is in the area of aerospace; orders for \$8 billion worth of commercial airplanes have been placed with Boeing, formerly of Seattle and currently headquartered in Chicago. Another big order for 125 military planes is on the way. High-tech manufacturing industry is at a take-off stage in India. In the first quarter of 2006, announcements by big U.S. companies totaling \$7 billion dollars in investment were made. That went far beyond India's expectations. This sector together, with IT services and Business Process Outsourcing (BPO) will power U.S. businesses to higher profitability, and help India accelerate its growth. "Co-operation in auto parts, pharmaceuticals, R&D and defense industry cannot be ruled out. For each of these, the U.S. is looking for a low cost supplier, that could be alternative to China," as Hari Sud wrote in his article, "India-U.S. Nuclear Deal—The Benefits" for South Asia Analysis Group .[\[10\]](#)

U.S. Secretary of State Condoleezza Rice readily admits America's commercial interest in India. On April 5, 2006 she testified to the Committee on Foreign Relations in the United States Senate that the agreement with India was "crafted with the private sector firmly in mind." She cited a \$13

billion deal by Boeing; she cited the hope of reactor sales by the U.S. nuclear industry; and she cited the opportunity for “U.S. companies to enter the lucrative and growing Indian market.”

And India’s defense market seems to be the one that is really motivating the deal. India is shopping for billions of dollars worth of military aircraft, and the administration is hoping it will buy both the F-16 and the F-18. According to the American press, “officials in the defense industry and the Pentagon are saying that the main effect of the nuclear deal will be to remove India from the ranks of violators of international norms. And once this change in India’s status occurs, there will be no impediment to arms exports.” The Russian press is even more explicit. It complains that in addition to “recognition of India’s nuclear status by the United States,” the nuclear deal “opened the door to the Indian market for American arms merchants,” with the result that Russia may be squeezed out, as Gary Milhollin put before the Committee on Foreign Relations in the United States Senate.[\[11\]](#)

Further, Tellis proposes “a comprehensive defense partnership” which can integrate the military-to-military relations, defense trade and production, joint research and operations into a single document that defines an “ambitious vision.” Given the strain on the U.S. military, India and the United States can sign an MOU on operations in the Indian Ocean given the high-value traffic and India’s geographic advantages.

Meanwhile, U.S. companies should be encouraged to invest in India’s defense sector, something that can help the trade imbalance.[\[12\]](#) Also, the United States can benefit immensely with India as a major military power. Forty percent of world’s oil and commerce passes through Indian Ocean sea-lanes. These today are unprotected. Pirates in the Red Sea and at the Malacca Straits prey on commerce. Indian cooperation will be helpful in keeping the sea-lanes free.

Future military expansion in India as it takes up its role as a regional player bodes well for U.S. military hardware suppliers. They will gain immensely over the next twenty years.[\[13\]](#) Further, the United States needs to preserve order in South Asia. Look at the map and it becomes clear that India is “an island of democratic values and political stability in a region convulsed by religious fanaticism, illiberal governments, state sponsors of terrorism and economic stasis.” Every state on India’s periphery has “a need to cope with state failure.”

If India joined its neighbors “in succumbing to state failure or was threatened by its neighbors’ pathologies,” it would be “catastrophic” for U.S. interests. A troubled India could unleash the disaffected into the world on a scale that would make “contemporary challenges look small in comparison.” Given the importance of India, President Bush has rightly set his eyes on enhancing relations, as Seema Sirohi opines.[\[14\]](#) And the Bush administration has been farsighted on this issue. With China rising, and Europe and Japan declining, it sees India as a natural partner. This agreement would bring a rising power into the global tent, making it not an outsider but a stakeholder, and giving it an incentive to help create and shape international norms and rules. For example, “India is becoming more worried about a nuclear Iran for this reason, and not because it is being pressured to do so by the United States. When India was being treated like an outlaw, it had no interest in playing the sheriff,” opines Fareed Zakaria.[\[15\]](#) Furthermore, “India’s vote to find Iran in non-compliance with IAEA standards was an even more dramatic example of where it stands on the critical effort to prevent a theocratic Iran from acquiring a nuclear weapons capability,” said R. Nicholas Burns.

The United States is much worried about Iran’s nuclear program and wants to curb it taking India’s help. “India also has the world’s second largest Muslim population, and a stronger relationship could help U.S. efforts to develop better relations with the Islamic world,” writes Michael A. Levi and Charles D. Ferguson. “At the moment as long as the U.S. stays in Iraq and Afghanistan, the world will perceive the U.S. as a big bully. A major regional power, with a different outlook than the European and the U.S. is needed to cool the tempers off. India has to step in to prevent further sliding of the Middle East into anarchy,” opines Hari Sud.

Another unstated benefit to the United States appears to be its assessment that India could be a counter-weight to a “rising China” in the region. Though this is not the view of some Indian policymakers, who believe that a constructive engagement with China is more beneficial and not linked to any military or strategic relationship with the United States. “U.S. policymakers of both political parties had long been concerned about a rising China, and by strengthening relations with China’s next-door neighbor, the administration saw the potential for a strategic hedge,” observe Michael A. Levi and Charles D. Ferguson. India is “a potential hedge against a rising China,” notes Tellis in his report, weaving together the threads of worry running through Washington. U.S. leaders are concerned about the growth of the Chinese military, its monetary policy, its vicious attacks on Japan and its increasing power projection capabilities. Both Secretary of State Rice and former Defense Secretary Donald Rumsfeld have sharply articulated their doubts on these grounds. An unbridled China is not in the U.S. interest, and by bolstering India, the United States can arrest the “growth of Chinese influence in the Indian Ocean rimlands and Chinese penetration of Myanmar,” says the Carnegie Report. “With a few strokes of pen, President Bush eliminated a major Cold War irritant from the scene. India is not politically and diplomatically aligned with the U.S. as Europe is, but India as a strategic partner in ensuring safety of sea-lanes of the Indian Ocean is very valuable,” writes Hari Sud. “A more robust U.S.-Indian relationship, it rightly reasoned, would lessen the chances that China could dominate the future of Asia,” observe Michael A. Levi and Charles D. Ferguson. With the non-proliferation objective in mind regarding India, the United States wants a power balance in Asia. Chinese dominance of Asia is not in favor of the United States. India may best serve as a counter-weight to China.

The United States sees India as a strategic partner in Asia, as it has Britain in Europe and Israel in the Middle East. The United States wants India’s cooperation to cope with the challenges in Asia in particular, and of the world in general. Bringing Russia’s old friend of the Cold War era nearer to the United States can also be a happy moment for U.S. policymakers.

About the Author

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