

India-US nuclear agreement at an impasse

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The much-heralded nuclear deal between India and the United States that was announced by US President George Bush and Indian Prime Minister Manmohan Singh on March 2, 2006, has now reached an impasse and is even threatening to unravel. Three days of intensive negotiations starting May 31 in New Delhi, between US Undersecretary of State for Political Affairs and the chief US negotiator of the Indo-US nuclear accord, Nicholas Burns, and his Indian counterpart, Foreign Secretary Shivashankar Menon, failed to resolve key differences.

Burns flew to New Delhi on an unscheduled visit with the single-minded purpose of reaching an accord on the so-called 123 agreement, so named since bilateral nuclear deals by the US with other countries are negotiated under section 123 of the 1954 US Atomic Energy Act (USAEA). The US side had introduced uncertainty about Burns's visit just prior to his arrival in New Delhi no doubt as a negotiating tactic to goad the Indian side into making concessions.

Burns was hoping to have a signed accord in time to make a triumphal announcement of Bush administration foreign policy "successes" during a meeting between Manmohan Singh and Bush in Heiligendamm, Germany, on the sidelines of the G-8 summit. Although India is not officially a member of the G8 group, Manmohan Singh has been invited to attend parts of the summit, as have the leaders of China, Brazil, Mexico and South Africa.

Under the Indo-US nuclear deal, India is to be given an exceptional status with access to nuclear technology and uranium fuel supplies from the 45-member Nuclear Suppliers Group (NSG), which controls world nuclear trade, in exchange for India clearly delineating its civilian nuclear facilities from those used for the military and putting the former under the inspection of the International Atomic Energy Agency (IAEA).

This special treatment accorded to India, which developed nuclear weapons in defiance of the Nuclear Non-Proliferation Treaty (NPT), should be contrasted with the US's incessant demonisation of, and threats against, Iran. Although Iran is a signatory to the NPT, the US has strenuously objected to it exercising its rights to develop a full civilian nuclear programme under the scrutiny of the IAEA, claiming that the NPT's stipulations constitute inadequate safeguards against Iran developing nuclear weapons.

The details of the Indo-US 123 agreement have been under negotiation for many months. But some of the stipulations of the December 2006 Henry Hyde Act, which amended the USAEA so as to allow the US government to enter into negotiations with India on civilian nuclear collaboration despite it having nuclear weapons, are proving to be major stumbling blocks.

The Hyde Act introduces several new requirements that are seen by the Indian nuclear establishment and much of the Indian political elite as a way for Washington to severely constrain the Indian nuclear programme and to subordinate India's foreign policy to the hegemonic ambitions of the US.

A comment on the *Stratfor* web site in May observed, "The problem is that India is not too pleased with several new stipulations that Congress added to the original agreement, and neither side has much of an appetite for making concessions at this point."

The Hyde Act stipulations that most concern India appear to be the following:

- * India is prohibited from detonating any nuclear explosive device, although under the accord, the US is not prohibited from carrying out similar tests. If India does detonate a nuclear device or otherwise breaks any agreement with the IAEA, then the US will invoke the "right of return" under which it can demand the return of all material supplied, including US reactors, spent fuel and unused fuel.

- * As the agreement stands, India is prohibited from using any equipment or fuel from the US for reprocessing spent nuclear fuel without explicit consent of US. India is seeking to include explicit language in the 123 agreement that would grant it full and permanent prior approval by the US.

The Hyde Act directs India "to dissuade, isolate, and if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction." The significance of this measure is in some dispute, because the White House contends that it is only "advisory," but India objects to any attempt to dictate its foreign policy through US law.

- * The US president is required to annually certify to Congress that India is complying with the act, a provision that the Indian elite fears will be used to routinely bully it to do US bidding on the world stage.

The Hyde Act also directs the Bush administration to seek approval of any final 123 agreement with India from the IAEA and NSG. Several members of the NSG have already voiced opposition to the deal, and it is not clear at this point whether a successful deal would obtain the approval of this body that works by unanimous consensus.

While the Bush administration has voiced public disapproval of some of the provisions in the Hyde Act, it appears that it is already using these binding congressional mandates to pressure India into

making concessions that are unacceptable to wide sections of the Indian elite, especially India's nuclear establishment and military.

The Hyde Act still maintains India's classification as a Non-Nuclear Weapons State (NNWS), and as a result, India would be held to various NPT-type prohibitions that are built into the USAEA. The absurdity of India's classification as an NNWS is readily apparent; India after all possesses a considerable number of nuclear weapons and is intent on expanding its "nuclear deterrent." Yet, this classification is necessary under US law if India is to be allowed civilian nuclear fuel and technology while not signing the NPT.

For the Indian elite, the nuclear-fuel supply guarantee and the ability to import foreign nuclear technology are pivotal. India has meagre domestic uranium reserves that put a considerable strain on its ability to supply both its civilian and military nuclear needs.

According to estimates by the International Panel on Fissile Material, India could increase its nuclear weapons production from its current capability of 6 to 12 weapons a year to as many as 40 to 50 weapons annually, once the Indo-US nuclear deal frees up domestic resources, including uranium for military use.

Although the Indian nuclear establishment with considerable effort has mastered all aspects of the complex nuclear technology, including its manufacture, much of its equipment has been reverse-engineered or jury-rigged, raising questions about their quality. The Indian nuclear establishment no doubt wants to interact with the world nuclear establishment to obtain more-advanced technology and scientific knowledge.

India has declared a moratorium on nuclear testing, but it is resisting transforming the moratorium into a legally binding agreement. The Indian elite wish to retain the right to revoke their moratorium at any time should they feel threatened by world developments, such as the testing of nuclear weapons by Pakistan or China, or for that matter, the development of new types of nuclear weapons by the US itself.

The right to reprocess spent fuel is also of great importance to India, because such fuel is necessary for the three-stage, indigenous nuclear process it is trying to develop—a process whose final stage would use thorium, of which India has vast reserves, as nuclear fuel. A prohibition against reprocessing uranium and plutonium would complicate or even halt this complex undertaking with the Indian side suffering tremendous technological and economic damage.

There is undoubtedly a complex set of contradictory factors motivating the two sides in their increasingly desperate attempt to hammer out an accord.

Successful conclusion of the deal would open up to US big business a huge Indian market for nuclear technology and military hardware that now is mainly supplied by Russia. According to the US Chamber of Commerce, a successful agreement could produce as much as \$100 billion in nuclear and other sales for US companies

Although economic calculations are of considerable importance, the most important factors motivating the Indo-US nuclear deal are geopolitical.

The nuclear deal has been touted by the Bush administration as proof of its willingness to assist India in becoming a "world

power" and as the first step in a "global partnership" between the world's "two most populous democracies."

The US is intent on making India a central part of its efforts to contain and constrain a rising China. It also hopes to use India as a springboard to further penetrate the oil-rich region of Central Asia and is prepared to consider contracting out to an India enmeshed with the US—through increased military, nuclear and geopolitical ties—the policing of the Indian Ocean.

The debacles the US is facing in Iraq and Afghanistan have only made the Bush administration more anxious to clinch such a deal with India.

Writing in the April 26 edition of the *Washington Post*, Nicholas Burns declared, "The pace of progress between Washington and Delhi has been so rapid, and the potential benefits to American interests so substantial, that I believe within a generation Americans may view India as one of our two or three most important strategic partners."

Underlining the considerable potential for profit by US companies, Burns continued, "American companies will be among the first to invest in and profit from the opening of this gigantic energy market. We hope India will move quickly to help us complete a final bilateral agreement to make this a reality."

The Indian elite has been gratified by Washington's talk of India becoming a world power. It also believes it vital to escape the international quarantine on India's nuclear programme for geopolitical reasons and so as to facilitate the rapid expansion of India's civilian nuclear energy capacity. (India is dependent on imports for 70 percent of its oil and natural gas.)

However, the refusal by the US to fully admit India to the "nuclear weapons club," the various stipulations in the Hyde Act, and the repeated attempts of Washington to use the accord to bully India into lining up with the US in its confrontation with Iran and into forgoing plans to join a pipeline to bring Iranian natural gas to South Asia have given pause to the Indian government and elite.

The US is urging India to abandon the gas pipeline project with Iran and Pakistan (IPI) in exchange for the nuclear deal and a rival gas pipeline project: the Turkmenistan-Afghanistan-Pakistan-Indian pipeline (TAPI). According to *Asia Times online*, the TAPI pipeline, unlike the IPI project, will involve major US oil and construction companies and will have to pass through US occupied Afghan territory. This will put the US in a commanding position; understandably, the Indian elite is wary of such dependence upon the US given its long-standing use of bullying tactics.

Burns's recent visit to India was accompanied by much talk, especially from the US side, that the talks on the 123 agreement have reached their final stage. But given the differing motivations and interests of the two sides, a 123 agreement may prove impossible to reach. Even if one is finalised, it will still need approval from the NSG, IAEA, and the US Congress, and will continue to rest on a shaky geopolitical foundation.



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