

Why the India-U.S. Nuclear Deal Hit A Brick Wall, and What To Do About It

by Ramtanu Maitra

After shouting from the rooftop for more than two years that the India-U.S. nuclear deal would bring about a drastic positive change to the Indian economy, a deflated Indian Prime Minister Manmohan Singh telephoned President Bush Oct. 13 to tell him that the deal had run into difficulties because of opposition from his communist coalition allies. Singh had promoted the deal as the keystone of success of his Congress Party-led United Progressive Alliance (UPA) government that assumed power in May 2004.

“The Prime Minister explained to President Bush that difficulties have arisen with respect to operationalization of the India-US civil nuclear co-operation agreement,” the Indian government said.

The process that led to Singh’s Oct. 13 telephone call was most interesting. Barely 24 hours before the call was made, Congress Party chief Mrs. Sonia Gandhi, who is surely the main power to reckon with in the Congress Party, told a public meeting in the state of Haryana: “We must understand that such elements [opposing the nuclear deal] are not only the enemies of the Congress, but they are also enemies of progress and development. We have to give them a strong and befitting reply.” Those strong words, at a ceremony for laying the foundation of a power plant, indicated that the United Progressive Alliance (UPA) government intended to push through that dynamo of “progress and development,” come rain or shine.

Also of interest is that the deal seemed to be on when International Atomic Energy Agency (IAEA) chief Mohammed ElBaradei was in India on Oct. 12, meeting with Prime Minister Singh. ElBaradei’s visit specifically concerned IAEA safeguard negotiations, a required step in implementing the India-U.S. deal. News reports indicate that Singh told ElBaradei what was known publicly, that India’s Left groups opposed the deal. Because the minority UPA government’s survival depends on the Left’s support, Singh reportedly hinted to ElBaradei that after extensively discussing the deal with the Left parties, the government would take a political call on beginning negotiations with the IAEA.

If these reports are correct, it shows that the deal was very much on, when the Singh-ElBaradei meeting took place. All that India needs is a bit of time, the Indian Prime Minister indicated to ElBaradei.

A Quick Change

But all that changed within 24 hours. After announcing Oct. 12 that New Delhi was not even considering a delay in the deal, Mrs. Gandhi and External Affairs Minister Pranab Mukherjee reportedly went to see Singh on Oct. 13, to tell him that the deal could not go through. Singh was then left with two choices—either to push the nuclear deal without a government (which would be absurd), or to keep the government in place and live to fight another day.

What was the urgency that led the Indian Prime Minister to phone President Bush to say that the deal had hit a brick wall? India’s Left parties were scheduled to meet on Oct. 22 to formulate their views on the issue one more time. Why couldn’t Singh wait another ten days before throwing in the towel? He had, after all, wholly identified himself with the deal for more than two years, making it look like his government’s single-item agenda.

The level of urgency suggests that the rebels against the deal were not only on the Left, but were swirling all around the Cabinet, and perhaps, beyond.

The nuclear deal does have problem areas, although the Left opposes the deal simply because it is with the United States, which, in line with its recent history, will eventually use the deal to undermine India’s sovereignty. No matter how insightful this argument is, it is in essence an “anti-United States” agenda.

A Problem-Infested Deal

But the deal has a few problems in itself. To begin with, the Bush Administration had to seek the permission of Congress, in order to make an exception for India, which has not signed the Nuclear Non-Proliferation Treaty (NPT) and is an “illegal” possessor of nuclear weapons and nuclear-power-related equipment, including nuclear reactors, fuel, and technologies. Congressional permission came in the form of H.R. 5682 (the Hyde Act), which was voted up on July 26, 2006. The Act said, among other things, that “it is in the interest of the United States to enter into an agreement for nuclear cooperation as set forth in Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) with a country that has never been an NPT member with respect to civilian nuclear technology....”

The negotiations between Washington and New Delhi of



Press Information Bureau of India

Prime Minister Manmohan Singh and Congress Party leader Sonia Gandhi were unable to push the deal with the United States through, in the face of fierce domestic political opposition. Here, Singh (center) participates in a Hindu festival on Oct. 21; Mrs. Gandhi is to his right.

Section 123 of the U.S. Atomic Energy Act of 1954 were completed on Aug. 3, 2007. Those negotiations concluded that after India agreed to full-scope safeguards with the IAEA, and after India obtained approval of the 45-member-nation Nuclear Suppliers Group (NSG) for supply of nuclear-related material and equipment, the agreement would go back to Capitol Hill for approval, and then the deal would become operational.

Among the various procedural delays, there were a few poison pills embedded in the Hyde Act, and in the Section 123 Agreement, that disturbed some in New Delhi. For instance, under Sec. 4: "Waiver Authority and Congressional Approval," one item said: "Secure India's full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich or process nuclear materials), and the means to deliver weapons of mass destruction." In addition, the Hyde Act urged the White House to seek India's full participation in the Proliferation Security Initiative.

India has a strong cultural and political relationship with Iran that goes back centuries. In addition to its thriving trade with Iran, India uses the Iranian transportation network for trade with Russia. Also, Iran is involved in negotiations with both India and Pakistan to supply its surplus natural gas to the subcontinent, where it is in high demand. Naturally, some in India thought it would be suicidal for New Delhi to take an irrational position against Iran, based on what Washington tells it to do.

Another concern is the Proliferation Security Initiative, a contribution of rabid neocon John R. Bolton, when he was U.S. Under-Secretary of State for Arms Control and International Security. The initiative was announced by President Bush on May 31, 2003. This is an international effort led by the United States to interdict transfer of banned weapons and weapons technology, and is primarily focussed on combatting proliferation of nuclear, chemical, and biological weapons and materials.

In September 2005, the People's Republic of China announced that it would not participate in the initiative, because of concerns over its legality, and India has so far resisted signing on to it. However, India, the United States, Japan, Australia, and Singapore conducted Proliferation Security Initiative exercises (the Malabar Exercises) in the Bay of

Bengal in September 2007.

In addition, some in India were concerned that adhering to the deal will prevent India from improving its nuclear weapons, thus short-changing its nuclear defense capabilities vis-à-vis China and Pakistan, the two neighboring nuclear-weapons nations. Some even pointed out that the deal is a back-door implementation of the Comprehensive Test Ban Treaty by India. Article 1 of the Treaty states that 1) "Each State Party undertakes not to carry out any nuclear weapon test explosion or any other nuclear explosion, and to prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control," and 2) "Each State Party undertakes, furthermore, to refrain from causing, encouraging, or in any way participating in the carrying out of any nuclear weapon test explosion or any other nuclear explosion."

Ironically, while the United States pushes countries to sign this Treaty, the U.S. Congress never ratified it.

But the difficulties embedded in the Hyde Act and the 123 Agreement were brushed aside as "non-binding" by those in India, and by the U.S. India lobby, operating in conjunction with the American-Israel Political Affairs Committee (AIPAC), which have hitched their wagon to the Bush Administration. Thus, said supporters of the deal, it is unnecessary for the opposition in New Delhi to run around like "headless chickens"—a phrase used by the Indian Ambassador to the United States, Ronen Sen.

The real stickler, however, is a clause stated clearly in the 123 Agreement: "Taking into account Article 5.6 of this Agreement, India agrees that nuclear material and equipment transferred to India by the United States of America

pursuant to this Agreement, and any nuclear material used in or produced through the use of nuclear material, non-nuclear material, equipment or components so transferred shall be subject to safeguards in perpetuity in accordance with the India-specific Safeguards Agreement between India and the IAEA ... and an Additional Protocol, when in force.”

This clause raises two problems. To begin with, the use of the word “perpetuity” suggests that the safeguard requirements would remain in force, even if the Non-Proliferation Treaty changes. Second, once India signs this agreement with the IAEA, and if the India-U.S. nuclear deal does not go through, or if India wants to shelve the deal later on, the IAEA safeguard requirements will remain set in stone. The safeguard requirement, in other words, is an agreement with the IAEA and, in essence, independent of the nuclear deal, although it is required in order for the U.S. Congress to grant the final enactment of the Hyde Act, which will make the nuclear deal operational.

Does this technicality make it look like India would be agreeing to a major part of the so-called disagreeable Non-Proliferation Treaty? To some in India, the answer is “yes.” It is likely that among those in New Delhi who met Mohammed ElBaradei on Oct. 12, the clarification of this “perpetuity” clause made all the difference.

The Deal That India Must Demand

The deal-pushers in the United States and India claimed repeatedly that this is the best that India can get. Many in India claim that through this deal, the United States has “indirectly” recognized India as a nuclear weapons state. In other words, make the best of a bad bargain.

No matter how the Manmohan Singh government, and his lobbyists in Washington, under the tutelage of an unthinking Indian Embassy in Washington, present the deal, it is still a back-door deal. And, like every back-door deal, it ran into problems. Although it does not pose a threat to India’s sovereignty (and, for sure, India’s Left parties are barking up the wrong tree hoping to get some political mileage out of it), the deal could cause serious problems for India’s indigenous nuclear power program, by delaying the absolutely essential development of thorium reactors. The thorium issue could also become an area of constant friction between the United States and India.

Since the Cold War days are over and India has emerged—thanks to its previous leaders’ commitment to feed its 1 billion-plus people—as a nation which could be one of the poles of global power in the future, it is not in India’s interest to cut a back-door deal with the Bush Administration, whose principal interest in the nuclear deal is to make India a dependent ally and a bulwark against the rising power north of India.

To put it bluntly, if the Indian leadership had a vision, and adequate self-respect, it would present to the Bush Administration, a package with a message: If you want India to devel-

op and progress, India will not accept any part of the package except the whole. The package is:

- India will sign the Nuclear Non-Proliferation Treaty.
- India will join the five official nuclear weapons states, becoming the sixth such nation.
- India will join these same five nations as a permanent member in the United Nations Security Council, the sixth such member.
- The signing on to all three items would be simultaneous.

Since the Non-Proliferation Treaty opened for signature in 1968 and entered into force in 1970, India has stayed away from it, calling it “discriminatory.” The most cited discriminatory clause in this nine-article treaty is Article VI, which says: “Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.”

What India rightly claims, is that since 1970, the five nuclear weapons states, under the pretext of the Cold War, had embellished their nuclear arsenal. No attempt was made for these states to impose upon themselves the same laws they often used, to impose by force, or threats of military invasion, on other nations.

The issue at stake is the five members of the United Nations Security Council—the nuclear-weapons states. It is evident that the actual source of power emanates from the conjunction of these two categories, permanent membership in the United Nations Security Council, and status as a nuclear weapons state.

How did these five nations become members of this exclusive club? In particular, how did Britain and France, with a fraction of India’s population and a fraction of India’s potential, become members of this exclusive club? The story is that they, along with the United States and Russia, were the victors of the Second World War—an event that occurred more than 60 years ago, when India, among many other of today’s important nations, were under foreign subjugation. But, if this is a club of the World War II victors, why is China included, and not India?

The answer is that the entire setup is discriminatory, a fact that India has accepted without a whimper. Yet, India would not sign the Non-Proliferation Treaty, because it is discriminatory!

Now, however, there is no reason to accept this discriminatory United Nations system exercised by the Club of Five. The only way to change the situation is for India to tell Washington, “If you want to be an ally of India, rearrange the Club.”

It is time for India’s leaders to stop waiting for hand-me-downs and use the leverage that the 1.1-plus billion people of the nation have earned, to demand what is good for the country in the long term.