

Charting an India- U.S. Nuclear Relationship

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The India-U.S 123 Agreement is one between two states possessing advanced nuclear technologies, striving to pave the way for full civil nuclear energy cooperation. The Agreement, which marks the culmination of a notable warming of U.S.-India relations, details a principle of reciprocity, serves to certify that US cooperation with India is a permanent one; with an IAEA-India-specific Agreement with a safeguards plan on civilian nuclear facilities, assurances of uninterrupted supply of fuel to reactors under IAEA safeguards, together with India's right to take corrective measures in case of interruption in supplies.

The Indian debate on the Deal has been coloured by heavy political overtones in India. In the United States, critics say the deal fundamentally reverses half a century of U.S. non-proliferation efforts, undermine attempts to prevent states like Iran and North Korea from acquiring nuclear weapons, and potentially contribute to a nuclear arms race in Asia. There has been considerable public debate and discussion on various aspects of the Agreement since it was inked on 1 August 2007.

Two kinds of thoughts exist within the prevailing nuclear order. The first deals with nuclear weapons stream and deals with warheads, deterrents, delivery systems, triads, doctrines etc. The second stream is concerned with energy, nuclear power generation, the resources for it, fuel cycle arrangements etc. India ought to gain from both these streams substantively. A closer analysis of the debate within India depicts both arguments being conflated. Issues concerning the weapons stream and of nuclear deterrent are used to leverage the argument against the nuclear energy proponents and vice-versa. The Indian debate is centered more on the negative security trade-off aspect, viewed as major threat by way of very high security costs. The burden of this argument is on perceived Indian losses and American gains in this sense. The debate within the United States, particularly amongst non-proliferation experts, stresses on the opposite i.e., of Indian gains on the non-proliferation front. Neither of the debates is directed at

joint advantages and successes wherein India agrees to abide by rules applicable to nuclear weapons states. This in turn helps the nuclear world obtaining a new member which abides by all the rules that are already in existence.

In the United States proponents of the agreement argue it will bring India closer to the United States at a time when the two countries are forging a strategic relationship to pursue their common interests in fighting terrorism, spreading democracy, and preventing the domination of Asia by any single power. Ashley Tellis of the Carnegie Endowment for International Peace posits that the deal recognizes this growing relationship by engaging India, which has proven that it is not a nuclear proliferation risk. Others, observe that the deal lays out the requirements for India to be recognized as a responsible steward of nuclear power. This, according to Teresita Schaffer of the Center for Strategic and International Studies, is part of a process of making India a more durable and reliable nuclear partner.

The Deal would encourage India to accept international safeguards on its facilities that have not been open to inspect before. This is a major step, according to the experts in the United States, because the existing non-proliferation regime has failed either to force India to give up its nuclear weapons or make it accept international inspections and restrictions on its nuclear facilities. The IAEA Director-General Mohammed El Baradei has strongly endorsed the deal, calling it a pragmatic way to bring India into the non-proliferation community. In addition, the Agreement helps recognise India's history of imposing voluntary safeguards on its nuclear programme. The prevailing view is of India with an unsullied record of setting credible safeguards on its nuclear programme for the last thirty years. For example, after the safeguards on the U.S.-supplied Tarapur nuclear facility expired in 1993, India voluntarily established a new agreement with the IAEA to continue the restrictions. Thus, it is a staunch recognition of India's hitherto unblemished record on proliferation. Although it is not a signatory to the NPT, India has maintained strict controls on its nuclear technology and has not shared it with any other country. Proponents of the deal say this restraint shows that India, unlike its nuclear neighbour Pakistan, is committed to responsible nuclear stewardship and fighting proliferation. In May 2005 India passed a law, the WMD Act, which criminalizes the trade and brokering of sensitive technology.

The critics in the United States label the Deal to be explicitly beneficial for India and lacking in sufficient safeguards to prevent New Delhi from continuing the production of nuclear weapons. Henry Sokolski of the Non-Proliferation Education Center, in particular forewarns that "the United States would send or allow others to send fresh fuel to India that includes yellowcake and lightly enriched uranium. This would free up Indian domestic sources of fuel to be solely dedicated to making many more bombs than they would otherwise have been able to make". Skeptics note that India could use the imported nuclear fuel to feed its civilian energy program while diverting its own nuclear fuel to weapons production. New Delhi has done similar things in the past; India claimed it was using nuclear technology for civilian purposes right up until its first nuclear weapons test in 1974. Further, a Congressional Research Service Report on the agreement states "there are no measures in this global partnership to restrain India's nuclear weapons program" and that there is a marked absence of full-scope safeguards.

The Deal stands to mark and reward India's decision to adopt similar nuclear export standards as those imposed by the Nuclear Suppliers Group (NSG). India has thus far chosen to abide by the strict export controls on nuclear technology set by the NSG; nuclear-supplier states who voluntarily coordinate controls of nuclear exports to non-nuclear-weapon states. However, practitioners aver that should India choose to lift its voluntary restrictions; it could just as easily sell its technology to far less trustworthy countries around the world. The Deal would instead serve to reward the Indian government for its voluntary controls and give New Delhi an incentive to continue them, against the demands of Indian hardliners who question the benefits India will get by placing such limits on itself.

The repeated refrain that there are far more cost-efficient ways to improve India's energy and technology sectors, runs rife in Washington. "These could include making India's existing electricity grid more efficient, restructuring the country's coal industry, and expanding the use of renewable energy sources", Sokolski had said in his congressional testimony. All these steps would involve much less dangerous transfers of technology that would not be dual-use, and therefore not convertible to nuclear weapons production.

The non-proliferation lobby in the U.S. is a disgruntled lot. Its proponents perceive the Deal to be a top-down administrative directive specifically designed to circumvent the inter-agency review process, and to minimize input from any remnants of this traditional lobby. The argument is that at a time when nearly all the major nuclear powers like the United States, France, Britain and Russia are moving towards limiting weapons production, the Deal does not require India to restrict the number of weapons it plans to produce.

Notwithstanding these reservations, since the year 2002 when the US national security strategy acknowledged India as a growing power with common strategic interests, including the New Steps in the Strategic Framework in 2005, India and the United States sealed their strategic convergence with the Deal. However, the final terms of the nuclear deal need approval from several sources before they can be implemented. The bodies required to approve the deal include the IAEA, India's Parliament, the NSG and the U.S. Congress.

India has to sign a safeguards agreement with the IAEA under which all nuclear material and equipment transferred to it by the United States as a part of this deal shall be subject to safeguards. The Board of Governors of the IAEA has to approve this India-specific safeguards agreement. The controversy in India centres on the argument that the Deal will limit India's sovereignty and thus, affect its security. Some Indian nuclear experts protest this form of excessive U.S. participation in deciding which of India's nuclear facilities to define as civilian, and open to international inspections under the plan. The NSG on its part tries to restrict the spread of nuclear technology that could be used in weapons programs through export controls. The United States hopes to convince the group to make an exception for India, which may be a difficult case to make, when the United States is simultaneously trying to prevent Iran and North Korea from gaining similar access to nuclear fuel and technology. As for U.S. domestic law, under the Atomic Energy Act which regulates the trade of nuclear material, Congressional approval is needed to pass the exemptions to U.S. laws required for the nuclear deal to be implemented.

Since 1998, successive Indian governments have worked hard to obtain a measure of nuclear legitimacy for the country's possession of nuclear weapons. Against heavy odds and opposition from many states, India has obtained a substantial measure of de facto acceptance of its nuclear weapons status, even if a formal recognition of its status as a nuclear weapons state is unlikely to come about in the foreseeable future. India's refusal to join the NPT arose wholly out of its belief that the treaty was discriminatory in perpetuating the 'right' of a few states to possess nuclear weapons. Yet, India has followed all the essential responsibilities of a NPT member. Indian authorities claim, not without considerable justification, that India's record in nuclear export control discipline has been better than that of nuclear weapons states. Indian nuclear doctrine defines the limits placed on the use of nuclear weapons. The nuclear doctrine is based on the principle of No First Use. This is explained as a policy of not using nuclear weapons, unless India is first attacked with weapons of mass destruction. India has chosen not to make tactical nuclear weapons, because it does not intend to use nuclear weapons for war fighting. Nuclear weapons are thus only to be used as instruments of deterrence. India seeks recognition for its nuclear legitimacy through its record on non-proliferation of nuclear technology, its democratic political system and firm civilian control over its strategic assets, and is willing to bind itself into all nuclear regimes and their stipulations, as proof of its determination to play a greater global role.

At the political-level, the Congress led United Party Alliance requires the mandate of all alliance members for the Agreement to enter into force. Even though there have been several inter-party and inter-parliamentary briefings on the subject since its onset, narrow and selfish party political considerations have frozen the endeavour at a stage when it was set to be operationalised. The BJP which had initiated measures leading to a U.S.-India nuclear relationship is holding back from backing the Deal. The leadership is at odds even with its own party members on supporting the Agreement. Political opportunism prevents the party from supporting the Government. The Left, as part of the UPA, has raised a political storm which threatens to bring down the government, even enforcing early elections. Arguing against compromising an independent foreign policy and joining a capitalistic enterprise of the United States, they have vehemently opposed the operationalisation of the Deal. Most of their arguments

are shortsighted that clearly indicates that the Left has given short shrift to national interest.

Meanwhile, the Deal was welcomed by most because it opened the doors for participation in civilian nuclear commerce with members of the NSG, while allowing it to retain its nuclear weapons programme despite being outside the NPT. The shared value of democracy is one factor behind the strategic convergence between the two powerful and most populous democracies in the world. The India-US Global Democracy Initiative and the United Nations Democracy Fund, both launched in 2005, provided forums for both countries to cooperate on this issue.

The strategic partnership with the US is seen by some as a US-led containment strategy against China. Conversely, India does not view its relations vis-à-vis the US and China as a zero-sum game. India's own concerns over China relate primarily to the latter's relationship with Pakistan as well as other countries in the subcontinent. The challenge before India therefore, lies in being able to build favorable relationships with both the U.S and China. India has to break out of the nuclear deadlock it has found itself in since it conducted the tests in May 1998. The BJP and Congress-led governments have worked relentlessly at repositioning India as a responsible nuclear power at the global level. This strategic enterprise of repositioning India in the new international order has been buttressed through new economic policies, strategic reorientation, peace initiatives in the region, a stable political order within the country, all of which have helped in creating an image and perception of a capable India with great power potential. This has led to the strategic partnership between most powerful and largest democracies in the world. It would be a strategic opportunity lost if the nuclear Deal is allowed to be aborted through the short-sighted positions being taken in the Indian political arena.

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