



India and the United States: Can the Nuclear Deal Hold?

*Rajesh M. Basrur**

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IN JULY 2005, India and the United States announced a ground-breaking understanding which promised the irreversible transformation of the relationship between the once “estranged democracies”. In a nutshell, the proposed agreement envisaged the separation of India’s military and civilian nuclear programmes and the placing of the latter under international safeguards. India would gain indirect recognition of its status as a nuclear power and access to nuclear materials and technology hitherto denied it. In return, the nonproliferation regime would expand the scope of its controls over the Indian nuclear establishment and obtain India’s full cooperation in stemming the global spread of nuclear weapons.

The initial agreement, signed in March 2006, overcame a major hurdle when the US Congress passed the Henry J. Hyde Act in October that year, but this set the stage for new difficulties. Today, negotiations over its follow-up, the so-called “123 agreement” (from section 123 of the US Atomic Energy Act, under which it falls) are floundering.

Causes of the Dispute

The dispute that threatens to run it aground stems from the Congressional mandate that American cooperation would cease if, among other things, India carried out a nuclear test. Opposition to the deal is strong on both sides. In the US, there is widespread concern that it will be a fatal blow to the nonproliferation regime, which revolves around the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). In India, the collective memory of colonial subjugation drives resistance to the test option, viewed as vital to national security, being foreclosed by a stronger power. Will the deal stay afloat?

The discourse on the deal is often cast in terms of a debate over energy versus proliferation, but neither is central. India’s energy benefits from the deal will be significant, but not greatly so – nuclear power will not be a major source of its rapidly rising energy requirements. If the NPT is shaky, that has more to do with its internal failings. The regime has failed to inhibit its members from entertaining nuclear ambitions (North Korea, Iraq, and Iran) or ignoring the original bargain made by the recognised weapons states (Britain, France, China, Russia and the US) to pursue a serious programme of disarmament.

The political motives behind the Indo-US deal are far more important. Both countries, while maintaining good relations with China, are hedging against possible threats from the emerging superpower. The US wants rising India on its side and is pushing for a coalition of democratic powers – with Japan, India and Australia – in Asia. This coincides well with India’s own desire to stave off a potential challenge from China and with its quest for admittance to the big league. The emerging democratic coalition would, in the calculus of

both, not only make China more inclined toward cooperation, but perform the more general function of maintaining stability in the region vis-à-vis diverse threats such as failing states and terrorists. In short, there is a strong political convergence underlying the nuclear deal. The key question is whether the differences between the two countries, particularly on the issue of testing, are sufficiently serious to capsize it.

Wider Concerns

Though neither expects India to test in the foreseeable future, both have wider concerns about the option to test. From the American standpoint, India has twice sprung a surprise on the US (in 1974 and 1998), and the prospect of a third surprise that might generate renewed Asian tensions and unravel the NPT framework is contemplated with considerable unease. Besides, the Hyde Act is a Congressional *fâit accompli* that the Bush Administration cannot reject outright. In India, there is opposition to the deal from both the right and the left. Memories of American pressures to close India's nuclear options in the 1990s still fester. India does not particularly want to test, but is unwilling to abandon the option. Both need to recognise the constraints on the other and their larger common interest.

The United States should recognise that India's overall nuclear posture is minimalist. It is a state which has faced serious security threats from a rival (in this case, Pakistan) and has yet chosen not to deploy nuclear weapons. Its declaration that further testing is not necessary stems from a perception that its existing capabilities suffice to deter much larger adversaries. This is consonant with the doctrinal position that, with nuclear weapons, balances do not count. This posture has been adopted by both right-leaning and centre-left governments. A future test, unlikely as it is, would come only in the event of a grave threat to national security in circumstances where the prospects of sanctions would not count for more than they did in 1998. Politically, India cannot close the door to future tests. The Hyde Act brings up memories of the "subsidiary alliances" imposed by the East India Company on Indian states *en route* to their subjugation. For its part, India needs to remember that, in the post-deal order, the likelihood of testing will be even less than it is now since a close relationship with the US will further enhance its security. If the situation becomes truly critical, the US will likely be willing to allow testing under a new deal. At worst, India's legal inhibitions will be overridden by security needs. The US is not the East India Company, India is not yesterday's weak state, and, not least, it is not without significance that the Company, still based in London, is today owned by an Indian!

Gains and Losses

There is much to be gained by both sides from a successful deal. Equally, there is much to be lost from a failure to go through with it. A global political framework without India's participation would lack that vital finish. India would likely keep away from agreements on fissile material control and missile control, eschew membership of the Proliferation Security Initiative, and perhaps shy away from a coalition of democratic powers. Its freedom to carry out a nuclear test will remain unrestricted. On the other hand, without a successful 123 agreement, India will remain an outsider in relation to the comity of major powers, and will continue to be deprived of access to a host of dual technologies. A sensible assessment calls for deeper commitment to the deal from both sides. Once a political understanding is reached, technical ways can be found to get around the present impasse and push the deal through. President Bush has already officially stated that he considers the Hyde Act to be advisory rather than binding. Another option would be to agree on an exit clause. The main point is not to let an agreement with far-reaching implications, one based on long-term convergence of political interests, run aground because of a political failure to overcome obstacles of secondary importance.

* *Rajesh M. Basrur is a Visiting Research Fellow at the S. Rajaratnam School of International Studies, NTU.*