



PROJECT ON INDIA AND THE SUBCONTINENT

Robert and Renée Belfer Center for Science and International Affairs
HARVARD UNIVERSITY

U.S.-India Civil Nuclear Deal

The United States and India have, in the words of U.S. Under Secretary of State Nicholas Burns, made the civil nuclear deal the “symbolic centerpiece” of the bilateral relationship. However, India’s coalition politics have created an obstacle to completing the deal. How important is this deal really, and how should we move forward?

BACKGROUND

In the July 18, 2005 Joint Statement released during the U.S.-India Summit, the two nations announced the creation of a deal that would allow for bilateral civil nuclear cooperation. This agreement created a carve-out in the Nuclear Nonproliferation Treaty (NPT) that had stood for over 30 years and had dictated two categories of states: nuclear and non-nuclear weapon states. Since this announcement, a number of steps have been taken to bring the deal into reality, including the December 2006 passage of the Hyde Act by the U.S. Congress and the summer 2007 completion of a 123 Agreement between India and the U.S. that lays out the specifics of the deal. Both of these steps were highly controversial for both sides.

When the deal was announced in July 2005, it was packaged along with eight other bilateral initiatives, which together defined the “strategic relationship” that we refer to today. The other projects included attention in such areas as economics, energy, space, disaster response, HIV/AIDS and agriculture. In the past two years, while some progress has been made, attention and political will directed towards these other initiatives has been limited, constrained by the attention focused on the civil nuclear discussions.

CURRENT SITUATION

Three steps must be undertaken in order to complete the deal. First, India must finalize negotiations with the International Atomic Energy Agency (IAEA) regarding inspections of its civilian nuclear reactors. Second, the deal must be taken to the 45-member Nuclear Suppliers Group (NSG) for a consensus vote of approval. Finally, the 123 Agreement must go before the U.S. Congress for an up or down vote. Assuming all these processes are complete, India will subsequently be permitted to engage in civil nuclear cooperation with all members of the NSG.

IAEA Negotiations: The Communist Parties, part of the ruling coalition but outside of the government, strongly reject the deal. Principally for anti-American reasons, these parties have threatened to pull the government down if it moves forward on the deal.

In the past two weeks, the Left appears to have compromised, allowing the Congress Party to engage in a dialogue with the IAEA, although it has not yet attempted to finalize anything. It is unclear whether the Left will approve the negotiations when the government completes them, or whether it will insist on lighter IAEA inspections, a measure that could make the agreement impassable in the NSG or U.S. Congress. However, the Left position has been significantly weakened in recent weeks by unrelated events in Nandigram in West Bengal (a state run by the Communists) and by the waning power of anti-Americanism in Indian politics.

NSG Negotiations: If the IAEA presents a balanced agreement, the USG will call a special meeting of the NSG shortly afterwards. Any agreement at the NSG must be approved by a consensus vote. Both India and the U.S. have been engaging for over a year with NSG members, and most are now on board. Possible spoilers are the Scandinavian countries, some of the smaller European nations such as Ireland, and China, which would like to make any NSG vote conditional rather than country-specific (ie: something that could eventually encompass Pakistan). If China pushes hard on conditionality, it is likely that a number of other countries will back out of their support for the agreement. If the NSG approves the agreement, all member countries will be able to start cooperation with India, excepting those, such as the U.S., that have separate domestic laws.

U.S. Congress: Given the clear majority that approved the Hyde Act in December 2006, it is likely that subsequent approval will be reached for the 123 agreement, provided that the NSG has already signed off (stopping at this stage will allow other countries than the U.S. to engage). Congress only has the authority to give the agreement an up or down vote. However, if the deal is not brought to the Hill before May, given the U.S. election cycle, it is unlikely for either the Republicans to extend their political capital or for the Democrats to give President Bush a policy win; thus, the deal will have to be placed on hold until after the U.S. elections in November 2008 (and possibly the Indian elections scheduled for 2009).

POLICY IMPLICATIONS

Ninety percent of the deal's benefits have already been achieved; in putting its political capital on the line, the U.S. has made clear its support of India as a global power, and this, in turn, has transformed the outlook of both sides regarding bilateral opportunities. Even if no more progress is made on the deal today, these benefits will still stand.

While it is clear that the civil nuclear deal will be completed eventually, the pertinent question is whether this can be accomplished before the 2008 U.S. elections, or whether it will

have to wait for a potential change in both the U.S. and Indian Governments. The negative implications of an Indian delay could include the following:

- U.S. agencies could become less willing to engage on other issues of bilateral interest, which would boost the position of those in the U.S. bureaucracy who do not trust India.
- A delay could send a message to other governments that India does not have the political will or power to engage in sensitive issues.
- India needs energy, particularly from environmentally friendly sources. While India currently gets only 3% of its electricity from nuclear energy, with the completion of the deal this will be able to rise significantly.
- A Democratic administration, if it occurs in 2008, might place more stringent conditions on the deal. This could capsize the deal entirely, leading to much more substantial implications.

The severity of these repercussions can be mitigated through some clear steps by both nations. The relationship is “strategic” precisely because it contains many elements of mutual interest. The civil nuclear deal does not need to be the “symbolic centerpiece” unless both parties define it as such. If movement can be advanced in a real and notable manner in other areas of the bilateral discussion, particularly those areas that also support India’s vision as a global leader, the potential impact of a temporary halt on the civil nuclear deal diminishes.

RECOMMENDATIONS

Civil Nuclear Deal

- The Congress-led Government should take advantage of the Left Parties’ current weakness and push for internal agreement on the deal.
- Both governments should emphasize the international aspect of the agreement: if the NSG agrees, all members will be able to engage with India in civilian nuclear cooperation. This includes Russia, with whom India has already signed a contract for four more reactors – a deal on hold until a NSG agreement is reached.

Broader Strategic Relationship

- Both nations should minimize the weight and attention on the civil nuclear deal by engaging more forcefully – and with greater political will and resources – on other elements of the bilateral relationship, including economic, military, space, agriculture, disaster response, energy, democracy, education, etc. (particularly those issues promoting India’s global stature). For example:
 - The CEO Forum, set up in 2005 with 10 senior Indian and American CEOs, has been providing recommendations to both governments for action. Some of these recommendations (such as lowering tariffs or opening markets) still need to be implemented and would provide a significant boost to bilateral trade.

- The Defense Framework, signed in June 2005, laid out a vision of bilateral cooperation. The strategic elements of this agreement need to be engaged upon.
- As India builds its infrastructure, there are enormous opportunities to help improve energy efficiencies by engaging U.S. technologies.