



Indo-US Nuclear Deal: A New Beginning in Indo-US Relations

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Abstract

The civilian nuclear cooperation is the name assigned to a joint accord on strategic cooperation between the two countries. The energy segment is the key in enhancing India's economic intensification to double digit. The joint statement of 2005 between the two nations is considered as a historic step. Hyde Act, 123 agreement, IAEA Safeguards and NSG waiver were main postulates for the nuclear deal to take place despite domestic and international reactions. The passage of the agreement in both the countries legislatures finally paved way for the enforcement of the deal. Both the nations were able to have lot of benefits through this historic nuclear deal. It balanced the strategic and economic relation between the two nations.

Keywords: India, USA, nuclear energy, 123 Agreement, Nuclear Suppliers Group (NSG).

Introduction

It is meaningful to evoke the history of chaotic bilateral relations between the two nations in order to understand the background of the Nuclear Cooperation. The relationship between the two countries had not always been so comfortable and cordial as one finds them today, but for a long period of time, the bilateral relation remained cold and the main reason behind such bitter relation was the "nuclear factor". In the beginning India received the assistance from US and other countries to exploit atom for peaceful purposes, but slowly after India rejected to be the signatory of the Nuclear Non-Proliferation Treaty and in 1974 test fired its first nuclear explosion known as Peaceful Nuclear Explosion. The nuclear test was followed by harsh reactions from across the world and in particular the passage of the Nuclear Non-Proliferation Act in 1978 by US was aimed to put embargo on nuclear commerce with India. Soon after the disintegration of USSR in 1991, India began increasing her cordial relation with US. Again in late 1990s India test fires five nuclear tests at Pokhran, which lead to implementation of economic sanctions against India. Towards the end of the 20th century and beginning of the 21st century, US policy towards India got transformed into more friendly rather than a far enemy. After implementation of economic sanctions over India in 1998, US very soon decided to enter into a strategic dialogue with India. The dialogue process was extended over two and half years in fourteen sessions in seven countries between Jaswant Singh from India and US Secretary of State Strobe Talbott. This process paved way for the enhanced understanding of national interests of both the countries, also it led the clearance of misunderstandings between the two countries. The Strobe Talbott-Jaswant Singh talks initiated dialogue processes that were notable not only for their lack of transparency but also for the fact that it initiated a sudden move into the foreign policy and strategic undermining

some of the key principles that had till then underpinned India's foreign policy¹. The bilateral relation got further boosted by then US Presidents visit to India in 2000. During the visit both countries aimed to proceed towards a constructive partnership, this laid down the foundation for transforming Indo-US relations.

Soon in the beginning of 21st century, US leadership under President Bill Clinton paid visit to India to establish close relationship and the two countries urged to construct a strategic partnership and increasing cooperation in various other fields². The Bush administration came to power in the year 2001 with the dream of strengthening relations with India. The 9/11 attacks produced greater opportunity for both the countries to further strengthen the strategic partnership. The nuclear cooperation is the name assigned to a joint accord on nuclear collaboration between the two countries. The Joint Statement under which India agreed to separate its civil and military nuclear facilities and place civil facilities under International Atomic Energy Agency (IAEA) safeguards and, in exchange, the United States agreed to work toward full civil nuclear cooperation with India was the main framework for this agreement. It setup a roadmap for further strategic cooperation between the two nations. During the Bush era, the nuclear accord with India is considered an extension of the qualitative transformation of bilateral relation. US favoured the nuclear deal with India and it would bring the later towards the international non-proliferation systems and thereby boost the non-proliferation regime³. The makers of the nuclear deal argued that it is an attempt to fortify India's capacity to develop its civilian nuclear energy's contribution to its huge and swiftly mounting electricity needs. In 2006, the Hyde Act was signed by President Bush, which is considered as a big step in the direction of reintegrating India with global nuclear market. The act grants the official basis for the 123 Agreement with India. The legislation on the nuclear

deal was signed by President G.W. Bush and approved by the U.S. Congress, into law, now called the United States-India Nuclear Cooperation Approval and Non-proliferation Enhancement Act. The agreement was signed on October 10 2008, it is also known as 123 agreement.

India's quest for Energy and Indo-US Joint Accord

The energy segment is the key in enhancing India's economic intensification to double digit. The progress of the energy segment in the country is been inhibited by capital, technology and environmental issues. Investments in energy sector have become imperative and to attract investments, Indian government has provided striking packages and policy incentives. Energy security for a country as large as India can only be provided by a diversified portfolio. An assessment of data shows India as the fifth largest producer of electricity in the world. However, while by hydro, coal, oil and gas India is amongst the top 10 countries of the world for production of electricity, but it is nowhere near the top 10 with respect to nuclear power generation. For a country like India, this is an inconsistency in need of modification. India needs to speed up the improvement of the sector to meet its growth aspirations. To stimulate economic growth, every source of energy needs to be exploited. While meeting today's needs, we have to continue to look into the future and work out strategic plans to meet future energy requirements. India and US have been witnessing unprecedented growth in their bilateral ties. The collaboration in energy field between the two nations has been crystallizing from the years in government, academia and industry. Currently some alliance exists in the fields of coal, gas and electricity and a number of US enterprises are working in India. Energy cooperation between the two is progressing in the areas like energy efficiency, nuclear energy, the application of biotechnology in biomass gasification, geophysical exploration, renewable, and other clean energy technologies. With advancement in technology and progress on the commercial deployment front, nuclear energy can have an imperative role in the electricity field. A nuclear energy policy must first of all be grounded in the confidence that India has a balanced and justifiable need for nuclear power⁴.

In 2003, the Bush administration not only rejuvenated the suspended nuclear safety cooperation with India, but also prolonged it to the greater possible extent within the sphere of U.S. domestic laws and international commitments toward nonproliferation. As part of this discourse, the U.S. National Regulatory Commission (NRC) was engaged with its Indian counterpart the Atomic Energy Regulation Board (AERB) to make sure the regulation and safety of nuclear reactors in India. India became eligible for Excess Defense Articles (EDA) on grant basis under the US Foreign Assistance Act in 2003. Its aim was to support the war on terrorism, promote interoperability of systems and to modernize previously solid equipment. Under the Presidency of Bush, US start giving much importance to India and actively sought to make India a

strategic partner. For the first time the Indo-US Defense Policy Group met and outlined a strategic partnership and commenced implementation of the same, which included joint training and procurement of some more defense related equipment. This subsequently led to an agreement between India and US on 'Next Steps in the Strategic partnership' (NSSP) in 2004. NSSP was the first document that clearly identified along with others Civilian nuclear activities as a strong spot for cooperation between the two countries⁵. It sought to expand collaboration on nuclear and civilian space technology, missile defense and dual use high-technology trade⁶. It aimed at providing India civilian nuclear technology to address her dreadful energy needs and bound the dangers of nuclear accidents at obsolete plants. Technology transfer and close cooperation in business and, science and technology including in the nuclear and missile technology areas also form an essential part of the bedrock of the partnership. In January 2004 NSSP was announced by Vajpayee and Bush, then reaffirmed by Manmohan Singh and Bush in September 2004, and at the movement moving into its second phase.

Along with various positive developments which took place in order to transform the bilateral relation, the most vital was the March 2005 visit of Condoleezza Rice to India, during her visit she revealed the eagerness of US to cooperate with India in the field of civilian nuclear energy. Indians were exceedingly surprised by this offer and lost no time in seizing the opportunity and immediately after her visit, the two nations started negotiations to chalk out contours for this broad cooperation. This restoration of the nuclear safety cooperation with India served as a significant confidence-building measure and assured both the countries that they had a common interest in providing safe and reliable nuclear energy. Anil Kakodkar as chairman of the Indian Atomic Energy Commission while underlining India's commitment to nonproliferation, made an appeal for the deletion of technological embargoes. He stated, "We have a commitment and an interest in contributing as a partner against proliferation ... we must discard the baggage inherited from the past which restricts the flow of equipment and technologies related to the peaceful uses of nuclear energy." Significantly, in July 2005, a mere couple of weeks before the scheduled visit of the Prime Minister of India to the U.S., the chairman of the AERB, A. Gopalakrishnan, for the first time drew public attention to the shortage of fuel for the Indian nuclear reactors. Calling for international cooperation in the supply of nuclear fuel, A. Gopalakrishnan criticized the silence maintained by the Indian government and the Department of Atomic Energy (DAE), he noted, "it turns out as the chief setback for the officials of NPCIL (Nuclear Power Corporation of India Limited) and the Nuclear Fuel Complex (NFC) to some extent⁷. Contrary to the common discernment, he emphasized that the imperative need for India, was not nuclear reactors, but fuel for the nuclear reactors already functioning or to be built. Cognizant of U.S. domestic laws and international commitments that barred nuclear trade with India, Gopalakrishnan anticipated that assistance on the part of Washington could at least support

the removal of NSG objections so as to facilitate India to import the gravely needed uranium, i.e., nuclear fuel, from other countries. Interestingly, India's growing nuclear energy needs were being recognized at the international level too⁸.

The US has been repetitively assured by two successive Indian governments of this desire, assurances that have been delivered in terms of concrete instances of support to the US. India while preserving as much recognition as possible as a nuclear weapon state, both NDA and UPA governments have been more than eager to surrender or narrow down their strategic and foreign policy options across the board, aligning with the US on everything from missile defense to climate change. On 28 June 2005, the new agenda for the Defense Relationship was signed between the US Defense Secretary and the Indian Defense Minister, to facilitate cooperative exercises, information sharing and greater opportunities to jointly build up technologies and deal with security and humanitarian issues, this came as a herald to the coming July 18 statement between the two nations. After more than a few years of joint deliberations between the two countries, an agreement on 18 July, 2005 was signed on the strategic relationship between the two⁹. Both the leaders issued a joint declaration on civil nuclear cooperation and significantly, Arvind Virmani quoted that it is in India's favour to utilize the opportunity provided by Bush administration, to enhance India's strategic capability and global power. However, the major advancement from international relations point of view and energy augmentation for India is the consensus reached between the two nations in July 2005. The joint statement between the two nations is considered as a historic step. The three major dialogue areas among a wide spectrum of areas for cooperation entrenched in the statement were: strategic (including global issues and defense), economic (including trade, finance, commerce, and environment) and energy. The civil nuclear technology has been acknowledged as a key area of collaboration, attempted at ending three decade long segregation of India by throwing open the most recent civil nuclear technology and in the course, facilitating accelerated fabrication of nuclear energy, thus tumbling the future utilization of hydrocarbon by India. The Foreign Relations Committee of the US Senate approved the Indo-US Energy Security Cooperation Act intended at increasing bilateral trade and investment in the Indian energy zone by working with the public and private sectors to promote identification of areas for cooperation and build on the wide array of existing collaboration between the two countries to organize safe, clean, consistent and inexpensive sources of energy.

Following agreement, Manmohan Singh made certain statements in Parliament, which now bind the government to definite commitments. These were a claim regarding deal that it will provide "full" admittance to nuclear technology in the civilian area, including what is termed as "dual use" technologies, like those related to reprocessing of fuel, enrichment process and the fabrication of heavy water. In return, besides separating civilian and military nuclear facilities,

and placing the former under safeguards stipulated by the International Atomic Energy Agency, India would stick to its voluntary cessation on nuclear testing and cooperate with US on a fissile material cut-off treaty. The mutual views to nuclear energy, which are more political than legal, centered on the amplification of the non-proliferation of weapons of mass destruction and on energy cooperation to prevail over India's rising energy scarcity. India like other countries will have the identical responsibilities and practices with sophisticated nuclear technologies, and has agreed on: i. Identification and separation of civilian-military nuclear facilities, and placing all the civilian nuclear facilities voluntarily under the International Atomic Energy Agency (IAEA) safeguards system. ii. Implementation of IAEA's additional protocol with respect of civilian nuclear facilities. iii. Enduring one-sided cessation on nuclear testing. iv. Working with US for the wrapping up of a Fissile Material Cut-Off Treaty (FMCT). v. Put in practice broad export controls on susceptible goods and technologies. vi. Harmonization and devotion of Missile Technology Control Regime (MTCR) and Nuclear Supplier Group (NSG) Guidelines¹⁰.

The US has reciprocally promised that it will: i. Adjust domestic laws and policies after seeking agreement from Congress. ii. Work with friends and allies to adjust international regimes to facilitate full civil nuclear energy cooperation and trade with India, and iii. Consult with partners on India's participation in the fusion energy consortium ITER and support India's part in work to develop advanced nuclear reactors.

Significance of the Accord

The 2005 joint statement was examined at different levels by experts, think tanks, politicians and commentators of media. It manifested the commencement of the next phase of strategic partnership entailing intensified cooperation on essential areas, including nuclear energy and 'international efforts to prevent WMD proliferation'. From the political point of view, the agreement had the most vital and extensive impacts. It established Indian relationship to US with new interests. India got recognized as a de facto nuclear power and there was prospect of American favour for becoming a global power and permanent membership in the United Nations Security Council. The joint statement detached almost three decades old technological sanctions and provided multifaceted assistance of influential economy of the world. It also provided energy options in nuclear area and made it a feasible resource for Indian growing economy. More importantly, the deal turned to be a huge global leverage for India being partner of the US, especially in ensuring India's safety measures in an unstable neighbourhood.

The main feature of the Joint Statement being the assurance by the U.S. President according to which US adjust domestic laws and policies after seeking agreement from Congress, as well as international regimes to enable full civil nuclear energy

cooperation with India. After amendment in its domestic laws US tried to accommodate India by persuading the members of the NSG to restart nuclear cooperation and trade with India¹¹. It broadened the energy options for India and predicted nuclear energy as a feasible basis of power for its growing economy. India, on its part, is to unilaterally lay its civilian nuclear reactors and nuclear materials to be acquired from US within the purview of IAEA's new India specific guidelines; for this, India is to draw a wall of separation between its nuclear defensive deterrence programme and nuclear energy producing reactor system. A. Gopalakrishnan (2005) quoted that the joint statement faced varied opinions in both the countries, with both opposition and favour coming from important individuals and political parties. Oddly, while the US non-proliferation lobby considers that the intentional collaboration with India would spoil the current nuclear control regime, the Indian opponents assert that the agenda will gravely edge the country's nuclear weapon capabilities, harm national security benefits and harm aboriginal nuclear development. The prime minister laid about joint agreement in a clear cut manner to Union Parliament on July 29, saying "Our nuclear programme is exceptional. It composes the entire assortment of activities that describe a highly developed nuclear power, the scientists already accomplished marvelous work and we are moving ahead fine on this programme as per the unique visualization outlined by Pandit Jawaharlal Nehru and Dr Homi Bhabha." He went on to argue that "nuclear power has to maintain an escalating role in our power generation plans" and the deal offers a means where "our aboriginal nuclear power programme based on domestic assets and national hi-tech capabilities would prolong to develop.

At the end of the joint accord of 2005, the Indian PM invited US President to tour India, which the latter accepted and as per his visit to India in March 2006, the two sides finalized a plan for the separation of civilian-military facilities of India. The key essentials were¹²: i. Eight indigenous Indian power reactors will be placed under an India specific safeguards agreement, the total number of power reactors is 22 and 14 will be brought under safeguards. ii. Future power reactors would be placed under safeguards, if India declares them as civilian. Some facilities in the Nuclear Fuel Complex e.g; fuel fabrication will be specified as civilian in 2008. iii. Nine research facilities and three heavy water plants would be declared as civilian.

The following facilities and activities are outside the separation list: i. Eight indigenous Indian power reactors. ii. Fast Breeder Test Reactor (FBTR) and Prototype Fast Breeder Reactor (PFBR) under construction. iii. Enrichment facilities. iv. Spent fuel reprocessing facilities (except for the existing safeguards on the Power Reactor Fuel Reprocessing (PREFRE) plant. v. Research Reactors: CIRUS (which will be shut down in 2010), Dhruva, Advanced Heavy Water Reactor. vi. Three heavy water plants. vii. Various military-related plants (e.g; prototype naval reactor).

As part of its plans for separating its facilities, India will eventually begin negotiations with the IAEA about the nature of safeguards it will put into practice. The leadership of both the nations hailed the March 2006 agreement as the anchor of a new "strategic partnership." Both the leaders received a report from chief executives of five US corporations and ten Indian companies to improve investment and commercial links. The corporation executives stressed that the greater US investment could help India to further develop its infrastructure, and American technical skill will be helpful for India to upgrade its low-cost manufacturing. India's target to construct nuclear power plants is to generate 40,000 megawatts of electricity by 2020 — an aim proclaimed by Prime Minister Singh. If the contract with the US is successful, 'India will have admittance to the global nuclear technology market', said by S. K. Jain chairman of Nuclear Power Corporation of India. He added, once the deal with the US is successful, supplies of enriched uranium would be 'included in contracts to install reactors.'

Some points revealed out as the logic of the US-India cooperation included that nuclear power is grave in meeting 'India's energy requirements', while also creating 'innovative business opportunities' for U.S. firms, which translates into 'new jobs for American workers'. Another main issue, the US vice president said: 'India will go into the global nonproliferation mainstream by sorting out its civil-military nuclear programmes'. The separation plan envisages requirements for remedial procedures that India may take to make certain continuous process of its civilian nuclear reactors in the incident of interruption of far-off fuel supplies. In November 2006, India received the largest trade delegation from the US which naturally included nuclear equipment companies. The Business Council of the Chamber of Commerce of India and US predicted that the new US law on nuclear relation with India would 'yield a gift of opportunities' for the two countries. K. Subrahmanyam, a foreign policy political analyst and chairman of Indian Government's Task Force on Global Strategic Developments, was quoted as saying that American interests and India's interests are 'at present, different', he further pointed out that it would take time for the differences to be 'harmonized', but added that 'the door has opened'. The US House of Representatives on 8 December, 2006, approved the conference report and passed the "Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006" gaining 330 votes out of 359. The US Senate also offered a "unanimous consent" to the conference report on 9 December 2006 and subsequently, on 18 December, 2006, President Bush, in a crucial development, signed the Hyde Act into law (PL 109-401) by President Bush on 18 December 2006, which is considered as a big step in the direction of reintegrating India with global nuclear market.

Hyde Act

The Act provides the permission for a bilateral pact between the two nations under which the US will grant access to civilian

nuclear technology and admittance to nuclear fuel in substitute for IAEA safeguards on civilian Indian reactors. It was introduced by the US Congressman Henry J. Hyde and passed by the US Congress, the passage and consent to the Hyde act by President Bush, the theme of the debate preceding it and the final contents of the legislation, have provided a rude reminder of the realities and constraints that govern Indo-US relations, exposing the diligently built-up myths of India's Bushies. US President outlined four key elements of the act which are: i. The amplification of energy co-operation between India and United States will lead to the foundation for a new strategic partnership. ii. The encouragement of economic growth which will allow investment from American businesses in India's civilian nuclear industry creating new jobs in America as well as new customers abroad. iii. Environmental protection by helping India to diminish emissions from coal based electricity generation through nuclear power generation. iv. Safeguarding American non-proliferation interests by opening Indian civilian nuclear facilities to international scrutiny.

The President intended anticipation of strengthening the strategic relationship between the two nations while signing the bill. Interestingly, the bill was passed with tough bipartisan hold in the U.S. Congress. The Henry Hyde Act was described as an "enabling legislation" as it created legal space, hitherto blocked by the Nuclear Nonproliferation Act of 1978 (NNPA), for resuming nuclear traffic with India, a non signatory of the NPT and de facto nuclear weapon state. Nevertheless, Congress attached certain clauses to emphasize the nonproliferation measures, such as: the president must yearly confirm that India is adhering as per the terms of agreement, India must sign a safeguards concurrence with the IAEA and acquire clearance from the NSG, and most significantly, the deal will lapse if India conducts further nuclear tests. Bearing a good responsible record, US expressed keenness to slot in assurances concerning fuel furnishing in the bilateral agreement under Section 123 of the US Atomic Energy Act. The US will also hold up an Indian endeavor to build up a intentional preserve of nuclear energy to safeguard beside any interruption of supply over the duration of India's reactors. If regardless of these measures, a distraction of fuel equipment to India takes place, the US and India would mutually set up a faction of pleasant supplier countries, including Russia, France and the UK to follow such procedures as would renovate fuel supply to India. For the time being, US approached NSG members to adjust their guiding principle to ease full civil nuclear collaboration with India.

Following the agreements of July 2005 and March 2006, and the Henry Hyde legislation, a separate technical agreement, popularly called the Indo-U.S. 123 Agreement, was signed by the two countries. It specified comprehensive responsibilities of and conditions for the two nations. There were certain requirements India needed to fulfill before the agreement could be operationalised like; an IAEA safeguards agreement must be signed and an approval of NSG must be obtained.

123 Agreement

On July 27, 2007 policymakers from both the countries signed an accord on civil nuclear cooperation, however the text was agreed on August 1, 2007. It is entitled, as "Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy (123 Agreement)". The 123 Agreement was introduced in the US Congress and it was passed with an overwhelming majority in both the Houses. However, accomplishment of the agreement received a hold up due to the opposition by the Communist parties that supported Manmohan Singh's minority government from outside. The communists were arguing that the agreement would place India in the US strategic track¹³. However, it was revealed by the Nuclear Power Corporation of India that the concord will assist India in meeting its aspiration of addition of 25,000 MW of nuclear power facility in the course of imports of nuclear reactors and fuel by 2020. The 123 agreement gives the operational origin to the Indo-US civil nuclear cooperation and lays the groundwork for the ultimate law that would permit US companies to originate nuclear traffic with India, it is the congress which holds the utmost significance in the Indo-US nuclear saga, it can be the just obstacle to an already slam dunk nuclear future for the two states.

In a nutshell, it is the 123 concurrence over which the Indian Government as well as the opposition parties and public are banking on. Major proportion of Indians have pinned hopes to this agreement with eagerness. The agreement was signed in the milieu of India's mounting demand for Energy supply and to secure its high Economic Growth rate. It is a sound discussed subject matter and is named so since Section 123 of the US Atomic Energy Act (AEA) of 1954 establishes an accord for cooperation as a precondition for nuclear deals between US and any other nation. 123 Agreement has attained an exceedingly important position in India after the passage of Hyde Act. The three appropriate sections of the AEA, as amended, would contain US nuclear collaboration with India: Sections 123 a. (2), 128, and 129. Section 123 a. (2) provides for full-scope nuclear safeguards by the IAEA for endorsement of an accord on nuclear collaboration; Section 128 provides for the same for licensing nuclear exports; and Section 129 provides for annihilation of export if a non-nuclear weapon state explode a nuclear device following the year 1978. Nevertheless, separation plan and placement of civilian nuclear facilities under IAEA safeguards, coordination and devotion of MTCR and NSG Guidelines on the Indian part made the House and Senate agree to grant the President, the capability to relinquish the relevant criteria of the AEA for a future US-India agreement for civil nuclear backing. The relevant part, that is Article 2.1, reveals: "...Each Party shall implement this Agreement in accordance with its respective applicable treaties, national laws, regulations and license requirements..."

India determined to lay its civil nuclear amenities under India-specific safeguards in 'perpetuity' - a term not used in any of the mutual statements, which mentioned 'voluntary' assignment of facilities under safeguard, as pertinent to any NWS. Both nations mutually agreed to "limit the spread of enrichment and reprocessing technologies" and "support the conclusion of a fissile material cut-off treaty." It was indication of India's assurance for pursuing its intentional objectives. Looking by nuclear energy perspective, the deal attempted to fortify India's capacity to develop nuclear energy and to supply its big and speedily increasing electricity desires, moderately than a clandestine 'atoms for war' endeavor that would enclose the outcome of stealthily increasing the augmentation in India's nuclear arsenal.

India-IAEA Safeguards

The safeguards can be said are the measures the organization applies to a country's stated civilian nuclear materials, technologies and facilities to safeguard in opposition to their utilization for nuclear weapons purposes. At the movement the three types of safeguards agreement viz; INFCIRC/66, INFCIRC/153 (this is for the NNWS, but Indo-Pak didn't fall into this category) and Voluntary Safeguards agreement. As per the Hyde Act of 2006, the winding up of a safeguards agreement between India and the IAEA is one of the two hurdles to be cleared prior to US Congressional ratification of the Indo-US agreement. An 'India-specific' safeguards agreement is based on the IAEA's facility specific safeguards (INFCIRC 66/Rev. 2), some arms control specialists in the US pointed out, but has a number of 'India specific' modifications. It is mandatory for India to bargain a protocol with IAEA to identify the safeguard agenda, under which selected civil nuclear facilities would be inspected. As per the NPT, India is not a 'Nuclear Weapon State' (NWS). On the other hand, being a de-facto nuclear power, India is not in a position to be considered as a 'Non-Nuclear Weapon State' (NNWS) either. Ever in view of the fact that it was first mooted in the mid-1990s the Additional Protocol (AP) has been seen by the IAEA and the non-proliferation regime at a large as an instrument to reinforce global monitoring of every nuclear action in countries that have dedicated themselves to the quest of nuclear technology for merely peaceful purposes. Generally speaking, AP immensely expands the commitment of signatories to present entire information about their nuclear programme to the agency and allows international inspectors a large amount of physical admittance to locations inside a country than a normal safeguards agreement. The Indian Additional Protocol departs from the model protocol in number of other ways. Two new paragraphs have been added to the preamble. The first realises the voluntary nature of the country's attainment, recognizing that India "in the exercise of its sovereign rights, is prepared to cooperate with the Agency in further development of peaceful use of nuclear energy". The second describes India as "a state with sophisticated nuclear technology", the phrase New Delhi has constantly used since the July 2005 agreement to strain its position as a state with

nuclear weapons outside the NPT system. Para (b) also introduces an unambiguous non-hindrance section that the protocol shall be implemented in a manner that it does not obstruct, or impede with any activities concerning the exercise of unsafeguarded material and equipments. The agreement on Indian part to acknowledge an additional protocol would aid strengthen the authenticity and importance of international safeguards and diminish the distinction in the safeguards burdens that India has to presuppose and those that non-nuclear weapon states have to tolerate in accommodating IAEA safeguards on all their nuclear amenities. All told, India has been able to trim down the AP's intrusiveness to such an amount that it involves almost no trouble. However, India's wrapping up of an additional protocol with the IAEA is also for the most part figurative because this safeguards agreement was intended to perceive implicit nuclear activities in states that have all their passive nuclear activities under IAEA safeguards.

IAEA's safeguards 'at a handful of foreign-supplied reactors and nuclear facilities and nuclear materials' would be 'parting its unsafeguarded military nuclear zone free' to do its activities. India is expected to own 'sufficient estranged fissile material for 60-100 nuclear warheads' and potentially 'far more if foreign nuclear fuel materials permit it to allocate its restricted domestic fuel supplies completely for arsenal purposes', they analyzed. On 1 August 2008, the IAEA at its Board of Governors meeting (35 states out of 144 member states) approved by consensus the draft "Agreement between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities". The text was finalized after some rounds of negotiations from November 2007 between India and the IAEA. The year 2009 is noted as the first year for the execution of the India-IAEA safeguards agreement. The concord requests the IAEA to validate that 'firm acknowledged Indian nuclear material and facilities are used only for peaceful means'. An 'umbrella arrangement' of the agreement will 'let India to adjoin facilities over time to be sited under IAEA safeguards. Mohamed ElBaradei, Director General of the IAEA, explained in his opening statement to the Board of Governors in session, that the text is an 'INFCIRC/66-type agreement' and is 'not inclusive or full-scope safeguards' agreement. An 'umbrella' agreement, it provides for 'any facility notified by India to the Agency in the future to become subject to safeguards. Facilities will be notified by India to the Agency in stages'. There were objections from countries like Pakistan, Iran, Ireland, Norway, Switzerland and Austria at the IAEA meeting. On 3 March 2009, the IAEA accepted an additional protocol to India's safeguards agreement, which permits for further invasive IAEA inspections on its civilian nuclear facilities.

India and NSG

The approval of an exception to the application of the NSG Guidelines with respect to nuclear trade between NSG members and India is another pending formality before the US

congressional ratification of the Indo-US agreement. As per the projected agreement, US is dedicated to make sure consistent supply of fuel to India and to cooperate with its friends and associates to regulate the practices of the NSG, thus facilitating India's complete entrance to the global fuel market. NSG supplies are reliant on prescribed receiver government assurances confirming safeguards and no nuclear unstable exercise. NSG is a group of countries (45 states at present) which are in a position to regulate supply of nuclear materials, technology, equipments, nuclear-related dual-use equipments and materials and related technology. It was formed at US proposal, as a result to India's Pokhran I, to inflict stringent nuclear export controls on non-nuclear weapon states. The NSG, is also known as the 'London Club', it began to reconvene in 1990 and established a common set of guidelines for exports by the major suppliers to help prevent the spread of nuclear weapons. In 1992, the NSG added full-scope IAEA safeguards as a stipulation of nuclear furnishing to NNWS, and established Nuclear-related Dual-use Guidelines and a Control list. In 1995, the NSG added gearshift on nuclear technology for items on the Trigger List, which magnetize compulsory IAEA safeguard on supplied matter. The NSG members unanimously agreed to require recipients of key nuclear facilities and materials to accept comprehensive IAEA safeguards, like those required under the NPT, as a condition of supply.

Prior to a review group meeting in Vienna in March 2006, the US dispersed a draft text for probable implementation by consensus of 45 member states. The cardinal point in the US draft read in part: 'Participating Governments may reassign trigger list items and/or related technology to the secured civil nuclear amenities in India as long as the participating Government intending to formulate the transportation is contented that India continues to entirely meet all of the nonproliferation and safeguards commitments, and all other necessities of the NSG Guidelines' There was no agreement at the March 2006 meeting, however, to place the US plan on the prescribed memo of the NSG plenary convention scheduled in Brazil from 29 May to 2 June 2006. Then, on 6 August 2008, US submitted its proposal (second draft) to Germany, then chair of the NSG for circulation among the NSG members who were scheduled to meet for an extraordinary plenary meeting on 21-22 August in Vienna. But the August meeting failed to reach a consensus decision.

India being non-signatory to NPT was supposed to get waiver in order to be able to get nuclear commerce at international level. NSG has banned a sale of enrichment and reprocessing technology and equipments for non-nuclear, non-proliferation treaty signatories. India surely have to stride cautiously while dealing with NSG for nuclear supplies, devoid of getting tripped on NWS or NNWS status. Regardless of open support by Russia, France, the UK and several other NSG members, to the anticipated Indo-US agreement, there could be tough time ahead in compelling all the members of NSG, which functions on the accord. The US support would be serious to make certain India-

specific waiver by NSG members while taking into account nuclear supplies to India. On September 4, 2008, the NSG approved to the US suggestion to let off India from this bar. This US suggestion was component of the full civil nuclear collaboration agreement, the White House made in replacement for getting India to concur to separate its civil-military nuclear programmes and put the later under international safeguards. The NSG decided to give waiver to India on September 6, 2008 permitting it to access civilian nuclear technology and fuel from other countries. India also pledged to carry on its voluntary suspension on nuclear testing, but has not assured to bring an end in producing plutonium. India has 30 percent of world's thorium reserves and only one percent of natural uranium. Therefore, it was vital for India to get the nuclear deal through as it will make possible for India to import natural uranium in international nuclear market. However, the projected separation of nuclear reactors into civilian and military would not diminish India's accessible nuclear stockpile or bound its impending intensification.

Though India has got clean waiver from NSG but it is still not clear whether India would be given a free hand to procure enrichment and reprocessing technology as G8 conference in 2009 put a fresh doubts, because it reiterates the stand that no country which is non-signatory to NPT should be given access to such technology. Although, Indian establishment made it loud that G8 proposals will not affect Indian nuclear agreement but it is very hard to make rational.

Indian Parliament and Nuclear Deal

India officially submitted the safeguards agreement to the IAEA on July 9, 2008. This advancement came after the Prime Minister returned from the summit meeting in Hokkaido, Japan, where he interacted with U.S. President. Indian news media reported that Prime Minister exposed to quit his place if the Left Front, whose hold up was central for the ruling UPA to demonstrate its bulk in the union parliament, persistent to counter the nuclear deal and he described their attitude as unreasonable and diehard. According to the Hindu, External Affairs Minister Pranab Mukherjee's prior statement was "I cannot bind the government if we lose our majority," denoting that UPA government would not place its mark on any deal with IAEA if it lost the majority in either an 'opposition-initiated no-confidence motion' or if fading to congregate a vote of confidence in Indian parliament after being told to confirm its bulk by the president. Prakash Karat on 8th July 2008 announced that the Left Front is taking away its hold to the government over the conclusion by the government to go forward on the United States-India Peaceful Atomic Energy Cooperation Act. The left front had been a strict backer of not going with this pact citing countrywide benefits. However, for India the day of July 22, 2008 came to be a milestone for all the wrong reasons as the United Progressive Alliance government secured the trust vote in Parliament by 275-256 votes, while 10 members abstained from voting to record a 19-vote victory in the milieu of

defections from both camps to the opposite camps. The run-up to the vote and the voting itself tore to shreds the procedures and practices of parliamentary democracy in India. And the UPA has got the green signal to take a major dive towards tying the country ever so firmly to the United States.

US Congress and Nuclear Deal

The nuclear cooperation between Indo-US was debatable and underwent several major stages and changes before it attained its current status. The US House of Representatives on September 28, 2008 voted 298–117 to endorse the Indo-US nuclear deal. On October 1, 2008 the US Senate voted 86–13 to back up the nuclear deal. After authorization from US Senate, President George W. Bush revealed about the deal that it will build up our global nonproliferation efforts, defend the environment, generate employment, and aid India in fulfilling its rising energy requirements in an accountable mode. The then US presidential candidates also voted in support of the bill. In the concluding step foreseen by the two countries for comprehension of their understandings, the US senate on 1 October 2008 permitted the deal by a vote of 86 to 13, subsequently to the previous endorsement by the House of Representatives. The legislation on the nuclear deal was signed by the President Bush on October 8, 2008 at a brief White House function in the presence of the Secretary of State Condoleezza Rice, Energy Secretary Samuel Bodman, Vice-President Dick Cheney and the Indian Ambassador to the U.S. Ronen Sen besides a large gathering of other dignitaries, which was approved by the U.S. Congress, into law, now called the United States-India Nuclear Cooperation Approval and Non-proliferation Enhancement Act, The ultimate executive stage of the deal was accomplished after Secretary of State Condoleezza Rice and External Affairs Minister Pranab Mukherjee signed the joint instruments of the 123 Agreement in Washington on October 10 2008, paving the means for operationalization of the deal between the two countries. The Indo-US Civil Nuclear Deal is also known as 123 agreement. The nuclear agreement with India was a primary foreign policy proposal for the Bush administration. It intended to eliminate venerable U.S.–India differences over India's nuclear programme, and to thereby advance the US strategic partnership with India. It is widely seen as a turning point in US-India relations by introducing a new aspect to the international nonproliferation efforts. It gives India an admittance to civil nuclear technology and is invented to assist the country accomplish its energy necessities and, expands US-India cooperation in energy and satellite technology. To a large extent, Indian-American mobilization was the grave cause behind irresistible congressional support for the notorious Bush-Singh agreement on prolonged U.S.–India nuclear trade and assistance, which looks set to throw away old limitations under the NPT and U.S. export law. Had it not been for the vigorous hard work of a recently professionalized “India lobby” on Capitol Hill, personal contacts with legislators and staffers by Indian-Americans, and proletariat informational and petitioning campaigns, it is probable that the efforts of the bill's

opponents particularly a reputable nonproliferation interest community in Washington and their clients in Congress would have killed it. In perception, an “India lobby” has been extensive in the making.

Political Opposition and Reaction against the Nuclear Deal

The deal received worldwide opposition from various groups including non-proliferation activists, anti-nuclear organizations, and others. However, the countries like United Kingdom, France, Japan, Russia, and Germany welcomed the deal. After some preliminary opposition, there were information of Australia, Switzerland, and Canada also expressing their prop up for the deal. After a historic civil nuclear cooperation agreement different views have been expressed by Indian and US politicians.

USA: Many US politicians were of the view that a wide hole has been punched into the NPT regime. American non-proliferation lobbyists criticized the nuclear deal on four grounds¹⁴: i. The deal would deteriorate the original objective of US nonproliferation policy-to put off the increase of nuclear weapons beyond the five recognized nuclear weapon states under the NPT. ii. The troubles of nuclear proliferation would be compounded in the appearance of current challenges posed by North Korea and Iran. iii. US-India cooperation could prompt other suppliers, like China, to rationalize its production and hold for Pakistan. iv. Finally in the process of obliging India in the larger global non-proliferation regime, the consequential for US in its efforts towards non-proliferation may be fairly less than gain for India.

Many analysts in America gaze at the Indo-US nuclear deal surely as a step necessitated by the reciprocal interests of both the states in harmonizing the increasing intentional power of China. Though India does not covet to serve up as a tactical proxy of the United States against China, it is however eager on pursuing a hedging approach in a potentially treacherous environment. While the United States cannot virtually anticipate to use Indian military bases in the experience of a conflict with China, it can sensibly anticipate India to share serious intelligence about Chinese military capabilities, mainly in the Indian Ocean and its littoral states. Nevertheless, there is an apprehension within some segments of the US Congress that the keenness of the Bush Administration to seek changes in the accessible laws and multiparty agreements would destabilize US national interests in regard to nuclear non-proliferation. As opposed to the inclination of the Bush Administration to treat India as a conscientious state with sophisticated nuclear technology, a contradictory view has emerged that sees the Indo-US nuclear deal as a conciliation that by passes rules pertinent to others. Critics in the U.S. argue that the deal basically reverses half a century of American nonproliferation efforts, the “Ayatollahs of Non-proliferation” in the US started a strident movement that the nuclear deal would compromise US

commitments to global nonproliferation, give confidence countries like North Korea and Iran to go nuclear and undermine the balance of power in Asia, as it would allow India to build up hundreds of nuclear warheads by getting across to important uranium ore for its power reactors. The majority of the members of US Congress struggled with the query whether the net blow of the deal on US non-proliferation strategy would be positive or negative. The bulk of the experts empanelled by the House Committee on International Relations argued that the deal weakens the international non-proliferation regime. Daryl Kimball argues that the nuclear deal will liberate India's accessible inadequate uranium possessions, which could be used to generate the largest possible nuclear weapons arsenal, and that "India's civil-military separation plan would allow the free flow of personnel and information between safeguarded and unsafeguarded facilities."

India: India also recorded a variety of opinions being articulated on the Indo-US nuclear deal. The agreement faced firm resistance by some political parties and activists in India. Indian opposition politicians think that the country's independent status and reputation have been sold out. The critics revealed that the deal will allow India to deflect its domestic uranium reserves towards its nuclear programme. Yashwant Sinha one of the political leaders supposed that the agreement made India submissive to the US, as it will have to pursue the rules of the Hyde act, a domestic US law, and that this condition is embarrassing for India. The scientific community in India had a mixed reaction. One of the former Directors of the Bhabha Atomic Research Centre held that this accord is totally against national interest. M. R. Srinivasan former Atomic Energy Commission Chairman felt that the requirements of the US law are "intrusive" and makes one feel that Washington is treating India as a "subservient entity" and not as a responsive nuclear power. Some favoured the agreement and accepting the necessity for nuclear energy in the years ahead, as it would make India's energy resources much better. Others argued that the separation plan is a burdensome task and may require severe repercussions for research and development in weapons advancement and for production conveniences needed for the nuclear restraint.

Main opposition party BJP and the left ally CPI (M) of the government were against the agreement, taking adversarial and contradictory positions. The issues regarding the substantive parts of the agreement namely; energy security, weapons programme, and nuclear power are being diverted. Most interestingly, it was the BJP that had laid the foundations of the emerging Indo-US strategic cooperation. The BJP's opposition to the civil nuclear cooperation has focused on the claim that the terms of the deal jeopardize India's nuclear weapons programme and therefore the country's strategic autonomy as quoted by the K.H. Sullivan. In general terms, the BJP has considered the deal to compromise: national security issues, autonomy of India's decision-making processes, the autonomy and independence of our nuclear programmes, the inviolability of the principle of a

minimum credible deterrent plus, the future of our scientific and technological research in the nuclear field. In particular, the 123 Agreement, indirectly endorsing the Hyde Act of 2006, has formed the basis of BJP concern, since the provisions of the Act, militate against India's sovereignty - in particular, in regard to the manner of our foreign policy. When enforced, they will fatally spoil our nuclear weapons programme, and thereby endanger our strategic objectives. The leftists, which were part of the ruling coalition in India, registered a huge criticism against the government for not taking them into consideration before signaling the nuclear deal with the US. They vehemently criticized the government for letting loose on India's long-held strategy of nuclear disarmament¹⁵. Other critics claimed America's recognition of India as a responsible state with sophisticated nuclear technology that should obtain the same benefits as other such states falls short of admitting it into the nuclear club.

Benefits of the Nuclear Deal

The civil nuclear agreement is not only about cooperation in the field of nuclear energy but it is more than that. The nuclear cooperation has turned into the showpiece of the new bilateral relationship, it focuses on issues like economic prosperity, closer military and strategic ties, intelligence sharing, and cooperation on fighting terrorism. The bilateral cooperation is a doorway to a broader strategic cooperation between two countries as was laid down by Condoleezza Rice at the agreement signing ceremony: 'Let no one guess that our hardwork is finalized. Indeed what is most important regarding this accord is that it opens a fresh and a far broader world of potential for our strategic partnership in 21st century, not only on nuclear cooperation but on every sector of national endeavour.' The deal has the potential to press on energy security, protect environment, boost economic and technological development in both the countries, strengthen non-proliferation regime and international security and to create balance of power in Asian region. The deal is full of benefits and provides mammoth remuneration to both the countries¹⁶. Many experts in both the nations viewed the nuclear agreement positively as a step necessitated by the joint interests of the two states.

Benefits to India: India has been the chief gainer of the agreement. It is a remarkable triumph for India to build up its nuclear programme. The deal proved beneficial for India in following ways: i. It will assist India in covering its growing energy requirements. ii. The deal puts an ending to India's decades old nuclear segregation and technology denial regimes. Traditionally, India sought international nuclear collaboration, even while maintaining a nuclear weapons programme, by approving to partial safeguards on nuclear imports. This approach allowed India to complement its domestic nuclear power potential with international cooperation, as long as there were willing international partners. iii. Due to historic agreement, India became the only country of the world with the de-facto nuclear status even without being signatory to the non-

proliferation treaty. Indian Prime Minister while highlighting the importance of the deal revealed, "The agreement would not hamper or otherwise interfere with India's nuclear activities, including our military facilities¹⁷." iv. Without signing the NPT and CTBT, India would be able to get strategic assistance from NPT members. v. The bilateral cooperation is both a sign of the acknowledgement of India's responsible nature as a state and appreciation of its standing to enter the nuclear club. vi. Another major benefit nuclear deal provides to India is that it will get fuel to feed its starving nuclear power programme and also the country will get fuel for its nuclear reactors not only from the US but from other suppliers as well. vii. The deal will significantly improve the Indian potential of making more nuclear warheads, as it provides guarantee on stable nuclear fuel delivery. viii. The deal grants Indian scientists a straightforward admittance to sophisticated technologies, thereby, building the qualitative development in nuclear warheads and their liberation systems.

Benefits to US: Like India, the deal is of paramount importance for the US as well, as it provides huge benefits to it ranging from economic to strategic. The important benefits are: i. The agreement has a great potential to boost economic fortunes of US. It will generate a business of \$40 worldwide in next fifteen years as India plans to build about 24 reactors in next 15 years. It will open new markets for American firms and will generate employment opportunities for the Americans. ii. U.S. benefits enormously with India as a chief military power. 40% of world's oil and commerce passes through the Indian Ocean sea lanes. Those today are defenseless. Pirates in the Red-sea and at the Malacca straits prey on commerce. Indian collaboration will be supportive in keeping the sea-lanes free. iii. The deal with India will help US in balancing the rising power of China. The Bush administration has dubbed China as 'future military adversary' and an important 'strategic issue' facing US. iv. The deal is the boon for the US nuclear sector as it will rejuvenate dormant American nuclear industry which is losing markets in the world and will make it globally more competitive. The aerospace and defense sectors will also reap vast benefits. v. Another important benefit which the US achieved was that the civil nuclear cooperation brought India much closer to the NPT regime.

Conclusion

The bilateral civil nuclear cooperation is a milestone as the leadership of both the nations has managed to challenge grave odds to make it happen. Without being the member of non-proliferation regime, the nuclear accord makes India to attain a recognized (de facto) nuclear status. It is all about civilian nuclear energy cooperation so that to meet the growing India's energy requirements, but it can be a predicament for the non-proliferation regime that India has a remedial determination to sustain its nuclear accumulation under the nuclear agreement. Through this deal, US is exclusively attempting to strengthen India into its coalition alliance to encourage its strategic benefits

in the region. In essence, non-proliferation objective is to meet the national interests of two states and also United States sought the nuclear agreement with India principally for two reasons: to control China and to tap the enormous Indian nuclear market. The nuclear deal also serves the broad economic objectives of both the nations.

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