

PARSING THE SEPARATION PLAN THE INDO-US SUBSIDIARY DEAL

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INTRODUCTION

India's foreign policy and nuclear establishment have good reason to exult on a very favourable agreement they secured on 2 March, 2006 detailing how India would separate its civilian and military nuclear facilities in compliance comply with the India-United States Joint Statement of 18 July 2005.

India has gained recognition as a quasi nuclear weapon state, and been pledged receiving nuclear technology, materials and equipment without joining the Non Proliferation Treaty or accepting fullscope safeguards over its entire nuclear programme. India would, thereby, acquire the privileges of a nuclear weapon state, avoid the liabilities of a non-nuclear weapon state, taking advantage of its intermediate status straddling both these groupings of nations. India had earlier been a pariah after its peaceful nuclear explosion (PNE) in 1974 (Pokharan I), and denied access to nuclear, space and defence technology under the guidelines of the Nuclear Suppliers Group (NSG), Missile Technology Control Regime (MTCR), Wassenaar Agreement and so on .

The different aspects of the separation plan, its implications for India and the United States, and the hurdles that lie ahead in taking further steps needed

to operationalize this plan are discussed below.

THE SEPARATION PLAN

Prime Minister Manmohan Singh detailed India's plans to separate its civilian and military nuclear facilities in Parliament on 7 March 2006. He prefaced the plan by enunciating its underlying principles from the Indian perspective, which included transparent implementation; being consistent with national security considerations, and the R & D requirements of India's long-term three-stage nuclear programme; and cost effectiveness. The civilian facilities identified for being safeguarded " will no longer be engaged in activities of strategic significance;" this will not impact adversely on India's national security; and such facilities will not be located within a " larger hub of strategic significance. "

Within these guiding principles, India proposed to:

- Offer 14 thermal power reactors between 2006 and 2014 for safeguarding that include the 6 currently safeguarded reactors (Tarapur 1 & 2, Rajasthan 1 & 2, Kudankulam 1 & 2) and 8 other 220 MW Pressurised Heavy Water Reactors (PHWRs) whose identity and phasing would be indicated later;

- The Prototype Fast Breeder Reactor (PFBR) and Fast Breeder Test Reactor (FTBR) in Kalpakkam will not be placed under safeguards due to their nascent state of development;
- All future civilian thermal power reactors and civilian breeder reactors so identified by India will be placed under safeguards;
- India will permanently close its Cirus reactor in 2010 (Canada had supplied it for peaceful purposes, but it had provided the plutonium for Pokharan I, and the Pokharan II nuclear test series); similarly, the fuel core of the Apsara Reactor (supplied by France, which went critical in 1956) would be shifted out from BARC in 2010 for placing under safeguards;
- Specific facilities in the Nuclear Fuel Complex to be placed under safeguards would be indicated later;
- Heavy water plants at Thal, Tuticorin and Hazira would be designated for civilian use between 2006-09, but are not “relevant for safeguards purposes;” (The purpose of this qualification is unclear.)
- After 2010 the Tarapur Power Reactor Fuel Reprocessing Plant could be placed under safeguards in the ‘campaign mode’ (This is quite incomprehensible since, even at present, the plant comes under safeguards when processing fuel from safeguarded facilities like the Rajasthan reactors) ;
- The Tarapur and Rajasthan spent fuel storage pools would be placed under safeguards between 2006-09 (These are already under safeguards);
- Nine research facilities have expressly been designated as civilian. (It is unclear why this declaration was necessary.)

For its part the United States:

- Would seek Congressional approval to amend domestic laws, and work with friends and allies to adjust the guidelines of the NSG to grant India full access to the international fuel market in terms of the 18 July, 2005 agreement;
- Would incorporate its assurances regarding fuel supply made in the 2 March, 2006 agreement in its Atomic Energy Act, join India in negotiating an India-specific fuel supply agreement with the IAEA, support India’s efforts to establish a strategic fuel reserve to meet possible disruptions in future supply, and, should disruption occur, the two countries would “convene a group of friendly supplier countries” to restore fuel supply;
- An India-specific safeguards agreement, that would remain in perpetuity, would be negotiated by India with the IAEA to prevent withdrawal of safeguarded nuclear materials and take corrective measures to ensure continued operation of its civilian nuclear reactors.

IMPLICATIONS OF THE SEPARATION PLAN

Even the most cursory examination of the 2 March 2006 agreement read with the 18 July 2005 Joint Statement informs that India has secured its interests without conceding very much to the United States. The Bush administration apparently had larger political considerations informing its approaches that included India being the world’s largest multicultural and multiethnic democracy, India being co-opted to mould the strategic architecture of Asia (read balance China), India having a rapidly growing economy with a burgeoning

middle class, India requiring nuclear energy to avoid excessive use of fossil fuels and becoming a major global polluter, India being an exemplar for the international nuclear regime despite remaining outside the Non Proliferation Treaty, and so on.

For its part the Indian administration was obviously intimidated by the Chairman, Atomic Energy Commission, Dr. Anil Kakodkar's publicly voicing his apprehensions that India's strategic and R & D autonomy were being eroded by New Delhi yielding to American pressure. Ironically India's strategic needs were being defined by the AEC Chief.

The inequality of Indo-U.S. obligations embedded in the separation plan is evident from the following:

(a) The eight atomic power reactors placed in the military list include Tarapur III & IV, and MAPP (Madras Atomic Power Plant) I & II. Together they have an installed capacity of around 1400 MWs annually. Theoretically they could produce some 280 kgs of plutonium annually assuming a 60 % plant load factor, sufficient to make over 40 bomb quantities each year. The four other reactors to be identified for the military list could also produce appreciable quantities of plutonium for manufacturing nuclear weapons.

(b) The 40 MW Cirus reactor, to be shut down after 2010, became critical in 1964. On theoretical considerations Cirus could have produced some three bomb quantities of plutonium every year since its inception, and had provided the plutonium for the Pokharan I and Pokharan II nuclear test series. The plutonium stocks remaining are confidential. So is the plutonium produced by the 100 MW

Dhruva production reactor that went critical in 1983. On theoretical considerations, it could produce some 8 bomb quantities each year. For that matter the 15 MW Prototype Fast Breeder Reactor in Kalpakkam, that went critical in 1986, could also, on theoretical considerations, have made some 4 bomb quantities of plutonium each year.

(c) The short point being stressed here is that India already has a fairly large quantity of plutonium to establish a fair sized nuclear arsenal. The debate on "how much is enough" has never really progressed in India, due to the reluctance of its policy elite to quantify the number of nuclear weapons needed to establish its "credible minimum deterrent". Evasive statements that there can be no 'fixity' in this regard, and that such numbers might change with time and circumstances shirk this question suggesting its preference for an open-ended deterrent being envisaged, which is ensured by the separation plan.

(d) India would be placing its identified civilian facilities, including power reactors, under international safeguards under a special agreement to be negotiated with the IAEA, which the United States has promised to assist in negotiating.

(e) The only real liabilities accepted by India are contained in the parent Indo-US Joint Statement of 18 July 2005, which envisage its continuing its unilateral moratorium on nuclear testing (the jury is out on whether it needs to test its warhead designs any further); working towards negotiating a Fissile Materials Cut Off Treaty (nowhere in sight); refraining from exporting enrichment and reprocessing technologies (India has always ensured this); securing nuclear

materials and technologies through comprehensive export control legislation (already done); and adhering by the NSG and MTCR guidelines. None of these obligations, therefore, are especially onerous for India.

FUTURE HURDLES AND STEPS AHEAD

Will the Congress led UPA government have problems in selling the separation plan domestically? The Left parties had opposed this plan on ideological grounds (read congenital anti-American compulsions) and the BJP in opposition had opposed it as a “sellout” (read the Opposition needs to oppose even policies they had initiated in office). The satisfaction publicly expressed by the AEC Chairman with the separation plan—it was largely his plan—has deflated the opposition to the Indo-US nuclear deal and separation plan, showing it to be illogical. In the Indian milieu approval of the separation plan does not require Parliamentary concurrence. What was forgotten in the national debate is that the nuclear deal was designed to procure nuclear technology for the civilian sector, whereas the debate revolved around preserving India’s strategic programme. Also forgotten in this debate is that nuclear energy only contributes some 3000 MWs, less than 3 % of India’s total current energy production. The future plans of the AEC to generate 10,000 MWs by 2010 and 150,000 MWs by 2050 is quite surreal. Wind energy, incidentally, contributes some 4 % to India’s total energy mix and is rapidly growing due to its being produced in the private sector.

However, there are several more hurdles involving external actors, that must be crossed before the Indo-US

nuclear deal and separation plan can be finalised.

First, and most formidable, is the U.S. Congress, now seized of the matter, which must amend the relevant American laws to enable nuclear technology transfers to India. The Bush administration has argued that India should be excepted from U.S. laws since it could compete with the United States in the fossil fuel market and drive up prices. Moreover, India’s non-proliferation record is impeccable; India’s case is easily distinguishable from problem states like North Korea, Iran and Pakistan. The separation plan brings some 65 % of India’s power reactors in the civilian sector under safeguards; its future reactors will most probably be in the civilian sector, adding to this proportion.

Undoubtedly, these are persuasive arguments. But the opposition is considerable and cannot be casually dismissed by pejoratively saying it is being voiced by the non-proliferation ayatollahs. Their concerns hinge around the contradictions highlighted in U.S. policy which insists on North Korea and Iran adhering by the Non Proliferation Treaty while India is being made an exception to its provisions without signing that Treaty. The supply of enriched and natural uranium to India, moreover, would free up its own resources for making nuclear weapons. Besides, a large proportion of India’s nuclear programme remains outside the safeguards and inspection regime; fast breeders producing more fissile material than they consume are also outside safeguards—incidentally, breeder technology has always been anathema to the non-proliferation lobby.

President Bush has made no secret of the difficulties he foresees in pushing the Indo-U.S. nuclear deal and separation plan through Congress, but remains confident of achieving this objective. Unfortunately, the Bush Presidency has been considerably debilitated by recent events viz. controversies involving his key associates, the lackadaisical way in which the preventive and rehabilitation programme for the Katrina Hurricane was handled and the worsening situation in Iraq. How much time he will be able to invest in getting the Indo-U.S nuclear deal through Congress is an open issue.

Second, President Bush also needs to persuade the NSG members to “adjust” their guidelines and permit India to import nuclear technology, materials and equipment. A division is evident among the NSG members, between those hoping to profit from nuclear trade with India (Russia, France and Canada), and those against making India an exception to the NSG guidelines due to domestic political compulsions (Sweden and Australia). China remains a conundrum, but has suggested that, if the United States can make an exception of India, China would make an exception for Pakistan by providing it with nuclear power plants. There is a popular misconception that NSG decisions, that include amending its guidelines, can be achieved by majority vote. This is not correct. All its decisions must be reached by consensus; hence any dissident vote can abort its decisions.

Third, the final hurdle is negotiating a special India-specific safeguards agreement with the IAEA, which must be acceptable to the large body of IAEA members, including several

nuclear-proficient countries that had voluntarily abjured their nuclear option.

CONCLUSION

The separation plan negotiated on 2 March 2006 under the Indo-U.S. nuclear deal of 18 July 2005 remains a work in progress. Which way the camel will sit down nobody can tell with certainty, as they say in Hindi.