U.S.-Indian Talks Fail to Move Nuclear Deal

Top U.S. and Indian officials failed recently to jump-start their stalled negotiations on a bilateral civil nuclear cooperation agreement that both governments hail as a centerpiece of their new relationship.

The two sides sought to favorably portray the latest talks that took place May 31 to June 2 in New Delhi. The U.S. embassy there issued a statement describing the discussions as “useful,” while Indian Foreign Secretary Shivshankar Menon deemed them as “constructive and productive.”

But the lead U.S. negotiator, Undersecretary of State for Political Affairs Nicholas Burns, left town without addressing reporters. His quiet exit spoke volumes about the lack of results, particularly since the Department of State had announced May 1 that the goal of Burns’ visit was to “reach a final agreement.”

The agreement being pursued is known as a 123 agreement, after the relevant section of the Atomic Energy Act of 1954. It would set the terms of future U.S.-Indian civil nuclear commerce. The United States previously cut off most nuclear trade with India following India’s 1974 explosion of a nuclear device derived in part from Canadian- and U.S.-origin material and technologies imported ostensibly for peaceful purposes.

Menon said June 2 that he was not setting dates or deadlines for completion of the agreement “because I do not think that is the right way to negotiate something that is so complicated.” Still, he noted that the two sides would like to finish negotiations “very quickly.”

President George W. Bush reportedly has invited Indian Prime Minister Manmohan Singh to an August stay at his home in Texas. They would probably like nothing more than to cap their visit with a finished agreement.

The two leaders put the entire effort in motion two years ago. (See ACT, September 2005.) Bush pledged to change U.S. law and international rules restricting nuclear trade with India in exchange for a Singh commitment to open up a greater portion of India’s nuclear complex to outside oversight, specifically safeguards administered by the International Atomic Energy Agency (IAEA). Safeguards are measures intended to prevent nuclear technologies and materials in civil programs from flowing to nuclear weapons.

Congress gave its blessing to reviving nuclear trade with India in legislation passed last December. In that legislation, lawmakers established conditions under which future trade could be carried out. (See ACT, January/February 2007.)

After the congressional action, Bush administration officials predicted a speedy conclusion of the 123 agreement. But the process has slowed to a standstill over the past several months because of differences over the details of the agreement.

India is opposed to clauses that would terminate cooperation and mandate the return of imports if New Delhi conducts another nuclear explosion. India also wants license to deal with U.S.-origin nuclear fuel however it sees fit, as well as the opportunity to purchase reprocessing and enrichment
technologies. Those technologies can be used to make nuclear fuel or nuclear bombs. In addition, India is seeking assurances that it will not be deprived of foreign nuclear fuel supplies in the event the United States ceases cooperation.

Neither side has been in a compromising mood. Existing U.S. law and policy limits U.S. flexibility, while the Indian nuclear establishment and opposition lawmakers are pressuring the Singh government not to budge.

Burns acknowledges the difficulties but proclaims confidence they will be overcome. “I believe we will reach the mountaintop,” he said in a May 23 speech.

Conclusion of a 123 agreement would not mark the fulfillment of the Bush-Singh plan. Before U.S.-Indian nuclear trade could actually commence, there would also need to be congressional approval of the 123 agreement, completion of an IAEA-Indian safeguards agreement, and a nuclear trade exemption for India from the 45-member Nuclear Suppliers Group (NSG), which operates by consensus.

A 1992 NSG rule restricts nuclear trade with non-nuclear-weapon states that do not subject all of their nuclear enterprise to IAEA safeguards. New Delhi does not do this, nor under the Bush-Singh plan does it plan to start. Because India is classified as a non-nuclear-weapon state under the terms of the 1968 nuclear Nonproliferation Treaty, which New Delhi has not signed, it must get relief from the NSG rule to take greater advantage of international nuclear trade. Despite some preliminary contacts, the IAEA and India have yet to launch negotiations on India’s request for unique safeguards. Meanwhile, some NSG members, such as France, Russia, and the United Kingdom, favor granting India a trade exemption, but other members must still be convinced. The group does not plan to take up the matter until a 123 agreement and IAEA safeguards agreement are negotiated.

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