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The Japan-India Agreement: An Exceptional Civil Nuclear Pact

The Japan-India “Agreement for Cooperation in the Peaceful Uses of Nuclear Energy”, signed in Tokyo on 11 November 2016, shows that the two countries have sorted out the diplomatic complexity of Delhi’s non-accession to the Nuclear Non-Proliferation Treaty. However, even as this pact remains to be ratified by the Japanese Parliament, China’s new activism inside the Nuclear Suppliers Group continues to pose a challenge to India.

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Nuclear-pacifist Japan’s executive Agreement with India for “Cooperation in the Peaceful Uses of Nuclear Energy”,² signed on 11 November 2016, is, for Tokyo, a leap of faith into the metaphoric outer space of international diplomacy. This is so because Japan, the only country to have suffered the cataclysmic impact of nuclear-bombing, has been wary of helping countries like India, which have not signed the Nuclear Non-Proliferation Treaty (NPT), in the development of atomic energy. The latest Agreement, signed during India’s Prime Minister

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² Ministry of External Affairs, Government of India, http://www.mea.gov.in/bilateral-documents.htm?dtl/27597/List_of_AgreementsMOUs_exchanged_during_the_visit_of_Prime_Minister_to_Japan. I am characterising the latest Japan-India civil nuclear Agreement as an executive accord because it has to be approved by the Japanese Diet (Parliament). Moreover, the inter-related aspects of atomic energy and nuclear weapons are emotive political issues in Japan. These basic facts should also explain why I attribute the latest Agreement more specifically to the Japanese Government at this stage.

Narendra Modi's visit to Tokyo for talks with his Japanese counterpart Shinzo Abe, has been "welcomed"³ by the two leaders. Setting the stage for this, the two countries had signed a "Memorandum concerning the Agreement on Cooperation in the Peaceful Uses of Nuclear Energy" on 12 December 2015, as the prelude to legal scrubbing, actual signing, and ratification by both countries.⁴

Japan has now made a singular exception in the case of India, although Delhi did not (and, does not appear inclined to) sign the NPT which legitimises the nuclear arsenals of only five countries that produced or acquired atomic weapons before the Treaty became effective. India successfully tested several of its indigenous nuclear weapons as a defensive-deterrent in 1998, long after the NPT had come into force. On a related matter too – namely, the potential diversion of a country's atomic-energy cycle, designed for electricity generation, towards the production of nuclear weapons *per se* – the Japanese Government has now addressed this to its own satisfaction with reference to India.

'New Level of Mutual Trust'

The very fact that the civil nuclear agreement has been signed, after more than six years of negotiations since June 2010, reflects the Japanese Government's trust in Delhi's non-NPT credentials. While the details of this accord have not been made public by either country at this stage, Prime Minister Abe of Japan and Narendra Modi of India have "welcomed" the "new level of mutual confidence and strategic partnership in the cause of clean energy, economic development and a peaceful and secure world".⁵ It is a matter of basic science, not diplomacy, that atomic energy as a source of electricity is considered to be a "clean" non-polluting option unlike coal-based thermal energy. It is also easy to discern how this agreement can promote economic development in India, a potential recipient of the Japanese nuclear-power reactors and atomic energy knowhow.

³ Ministry of External Affairs, Government of India, http://www.mea.gov.in/bilateral-documents.htm?dtl/27599/IndiaJapan_Joint_Statement_during_the_visit_of_Prime_Minister_to_Japan

⁴ For an analysis of the Japan-India civil nuclear Memorandum signed in December 2015, read P S Suryanarayana, *Towards a Future-Oriented India-Japan Partnership*, ISAS Insights No. 301 – 22 December 2015, <http://www.isas.nus.edu.sg>

⁵ Same source as in Note 3

As for the belief expressed by Abe and Modi that the Agreement serves the “cause” of a “peaceful and secure world”, the reasoning by the two leaders may be explained as follows. Tokyo has reckoned that Delhi’s agreements with the International Atomic Energy Agency (IAEA) in August 2008 and later can serve as an insurance against India’s hypothetical diversions of the prospective Japanese civil nuclear supplies towards the Indian atomic armament programme. Relevant to the sub-context here is the political message behind those India-IAEA agreements. In a paraphrased and vastly-simplified political sense, those agreements with the IAEA brought Delhi into the international mainstream of nuclear non-proliferation, with reference to those civil nuclear facilities which India itself would allow to be monitored (not those facilities related to India’s atomic-weapons programme as a defensive-deterrent). Therefore, insofar as the latest Japan-India civil nuclear agreement is concerned, Tokyo should be able to ensure that its potential or prospective assistance to Delhi would have no miscarriage towards India’s nuclear weapons programme.

Abe and Modi have thus sorted out the diplomatic issues concerning civil nuclear cooperation, under the overall framework of the Japan-India ‘Special Strategic and Global Partnership’ that was agreed upon in 2014. In fact, significant indeed is what Abe said after his talks with Modi on 11 November 2016: “I hope to greatly mature the relationship between our two countries, which holds an extreme amount of possibilities. I want to construct robust bilateral relations befitting the new era for Japan and India”.⁶ However, the latest Japan-India civil nuclear accord remains to be approved by the Japanese Diet (Parliament), an aspect of more than routine importance because of two reasons.

One reason why the Diet’s decision must be awaited with some uncertainty about its outcome is the fact that the new bilateral pact is of greater importance to India than Japan itself at this stage. India has said that “this [accord] would provide for the development of nuclear power projects in India and thus [the] strengthening of energy security of the country. The present agreement would open up the door for collaboration between Indian and Japanese industries in our [Indian] civil nuclear programme”.⁷ Outwardly, India’s annotation of the latest pact may seem tautological, but this is not so. Japan’s own atomic energy companies can now supply nuclear reactors and knowhow for electricity generation in India. More importantly, the giant civil nuclear companies in the United States, which have collaborative links with some

⁶ Prime Minister of Japan, http://japan.kantei.go.jp/97_abe/actions/201611/11article2.html

⁷ Ministry of External Affairs, Government of India, http://www.mea.gov.in/bilateral-documents.htm?dtl/27597/List_of_AgreementsMOUs_exchanged_during_the_visit_of_Prime_Minister_to_Japan

established Japanese firms, can now feel unfettered to supply reactors and knowhow to India, thereby “strengthening [India’s] energy security”. Foremost in this category are the current US corporate plans to set up nuclear power plants in India’s sub-national States of Gujarat and Andhra Pradesh.

Complexity of a Package Deal

While the Diet might have no reservations about the beneficial spin-off for Delhi, given also Japan’s reciprocal gains in terms of business deals with India, the second reason for awaiting Diet’s decision is the sheer complexity of this new pact itself. India’s Foreign Secretary Jaishankar has portrayed the latest pact as an all-in-one package of technical details: “We [India and Japan] have tried to actually compress ... four stages into one... [T]he bilateral cooperation [aspect], the NSG exemption [i.e., India’s exemption from the guidelines of the Nuclear Suppliers Group (NSG)], the [aspect of] reprocessing [the spent or used nuclear fuel], [and] the administrative [details] – they are all captured into a single stage [of a comprehensive Japan-India civil nuclear agreement] ... [I]t is very much on the lines of the agreements which have been signed [by India with other countries] ... [The Japan-India agreement] captures these four stages [that happened sequentially] in the case of the [India-] United States [civil nuclear agreement]”.⁸ Of keen interest to Diet will be these four sequential aspects of the latest Japan-India civil nuclear pact – the basic understanding on cooperation; the exemption that India obtained in September 2008 from the NSG’s requirement of accession to the NPT for receiving civil nuclear supplies and knowhow from any country; the reprocessing requirement that India would not use Japan-supplied nuclear reactors, knowhow etc. for any kind of military purpose; and administrative details regarding liability etc. in the event of accidents at the power plants that might use Japanese-supplied materials, knowhow etc., as well as other routine administrative details.

As the various Japanese political classes are represented in the Diet, the discussions there on these four inter-related aspects of the Japan-India civil nuclear pact will be watched closely. The overarching framework for this pact was first set out by a top Japanese diplomat, Kazuo

⁸ Ministry of External Affairs, Government of India, http://www.mea.gov.in/media-briefings.htm?dtl/27602/Transcript_of_Media_Briefing_by_Foreign_Secretary_in_Tokyo_on_the_visit_of_Prime_Minister_to_Japan_November_11_2016

Kodama, in an exclusive interview to this author in June 2010,⁹ a few days before the then Japanese Government decided to begin negotiations with India. Kodama had cited four factors for the prospective Japanese move, as it then was, for talks with India on possible civil nuclear cooperation: “the importance of India for Japan”; the likely “impact [of a Japan-India civil nuclear pact] on international nuclear non-proliferation system”; “Japan’s [traditional] contribution in the area of civil nuclear cooperation [with other countries]”; and “the energy-and-industrial-policy viewpoint of the Japanese Government”. It is now likely that the Diet will weigh the latest Japan-India civil nuclear pact in the light of these four aspects as well, besides the four sequential aspects of this accord. Another factor at work is that India had secured an “exceptional status” [Kodama’s words] at the NSG in September 2008, when the Group allowed its members (the United States, Japan, China and all others) to trade with India on civil nuclear matters, regardless of Delhi’s status as a non-NPT country (a State that has not acceded to the NPT).

Interestingly, in this latest context of Japan-India civil nuclear pact, China is continuing to lead a campaign at the NSG for a “two-step intergovernmental process to address the issue of non-NPT States’ participation” in the Group as its new members. The first step is to evolve an NSG-wide consensus on the “technical, legal and political aspects” of allowing non-NPT States into the Group while upholding “the effectiveness, authority and integrity of the international non-proliferation regime with the NPT as its cornerstone”.¹⁰ Only after consensus is attained on these technical, legal and political aspects, the NSG can, in China’s view, consider country-specific applications like India’s for membership of this Group. China’s new activism at the NSG keeps Delhi guessing about its prospects of joining the Group as a member to be able to share India’s own civil nuclear knowhow and materials with other countries. Viewed in this perspective, while the US helped India secure a favourable deal from the NSG in 2008, China now poses a formidable challenge to Delhi in its civil nuclear ambitions on the global stage.

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⁹ The breaking-news interview was secured by this author in June 2010 in his capacity then as the Asia Pacific Correspondent of India’s newspaper, *The Hindu*. The quotations here are from the actual recording of that interview.

¹⁰ Ministry of Foreign Affairs, People’s Republic of China, http://www.fmprc.gov.cn/mfa_eng/wjbxw/t1414825.shtml