

"Implementation of Hyde Act would mean shifting of goalposts"

Pallava Bagla

Anil Kakodkar, chairman of the Atomic Energy Commission, articulates his concerns on the still unfolding Indo-U.S. nuclear deal. Excerpts from an interview:



— Photo: H. Vibhu

Anil Kakodkar: "If all our concerns are met, certainly it is a win-win situation for us."

The Hyde Act, passed by the U.S. Congress last December, is intended to enable nuclear commerce with India. Is the Act consistent with the July 2005 Indo-U.S. agreement?

The July 18 [2005] joint statement and the March 2 [2006] separation plan — agreed by both sides — are the basis for us to carry forward civil nuclear cooperation. When the legislation was in the making in the U.S. Congress, several concerns arose. Those were very clearly articulated in the Prime Minister's statement in the Rajya Sabha last August. The Hyde Act is the final form of this legislation [but] some of the concerns still remain. And as the Prime Minister has said, we need to seek clarifications because the U.S. side maintains it would be possible for them to sort of meet all the requirements embedded in the July 18 joint statement and the March 2 separation plan.

What are the key areas of concern arising from the Hyde Act?

The most important thing is the July 18 joint statement clearly stated India as a responsible country with advanced nuclear technology should have the same benefits and advantages as countries with advanced nuclear technology, such as the U.S. Now, India has a nuclear weapons programme. The July 18 statement was about civil nuclear cooperation to be done in such a manner that there is no impingement whatsoever on India's strategic programme.

And the Hyde Act impinges on the strategic programme?

This is the main concern and we need to seek clarification, because whether you take it at the level of the sense of Congress, the level of U.S. policy or the assessment and reporting requirement, there are a fairly large number of sections which essentially seek to, sort of, contain or cap the Indian strategic programme. And, in fact, in some places, it also articulates a policy or philosophy of rollback. This is a very serious issue and we need to seek clarifications. This is one of the most important things. There are of course many others.

If we accept the Hyde Act now, is it clear that we will never be able to conduct a nuclear explosion?

The Act says that if India conducts a nuclear test, cooperation would cease. In fact, it goes beyond to say that all the equipment and reactor vessels and materials have to be returned. I don't understand how that's possible. India has declared a kind of unilateral moratorium. It cannot be converted into any kind of bilateral or multilateral legality. So this is another area where we have to seek clarification.

So the Hyde Act is not acceptable to the Department of Atomic Energy?

Well, it is a U.S. Act ...

But it impinges on your programme?

Yes, to that extent we have serious concerns.

Weren't the tests of 1974 and 1998 enough?

That's not the point. We are talking not just of near term. We are talking about how things are likely to unfold. Should there be situations which evolve, where, say, some other countries start doing tests, or there are changes in technology, the question would arise that at that time what should India do. We are at this moment wedded to the policy of our own unilateral moratorium, but that is based on conditions as they exist and we hope they will remain like that. But to ensure the security concerns of India, we should remain in a position to address [changes] properly.

How did we allow the goalposts to shift from civil nuclear cooperation to something that could impinge on our strategic programme?

It's like this. We've been talking all along, discussing essentially civil nuclear cooperation in a manner that does not impinge on the country's strategic programme. Now the processes in the U.S. Congress are something quite independent. We have little role to play there but, when we negotiate and discuss bilateral matters, certainly we have to take that into account.

And the goalposts have been shifted from civil nuclear cooperation to capping India's programme?

Well, if the Hyde Act is implemented as a part of the actions on the U.S. side, certainly it would mean shifting of goalposts.

In the process of legislation, we seem to have lost this assurance of lifetime fuel supply. How big a concern is that?

That's a crucial matter. The separation plan clearly states there would be multi-layered assurances for fuel supplies and that includes the ability to build a stockpile to meet the lifetime requirements of the reactors. If that doesn't get into reality, there are serious concerns because we have this Tarapur example glaring at us. So we can't have problems similar to Tarapur, but of a much larger magnitude.

It is said that some of these concerns will get addressed in the "123 agreement," which is still to be negotiated.

That's right. We'll certainly seek clarifications on these matters.

But this will not be the first 123 agreement India negotiated. Tarapur was also a 123 agreement.

Yes, the Tarapur 123 agreement had very clear kind of provisions for reliable supply for the whole life. But in spite of that, we had difficulties. So we have to protect ourselves. We have to negotiate this whole process quite well.

You're still hopeful the 123 Agreement will in some respects be able to accommodate your concerns?

I always approach things with a very positive attitude. The point is we are talking about developing civil nuclear cooperation as a solution to India's energy problem. Our energy requirements are going to increase 10-12 fold in the next 4-5 decades. If we don't develop new energy sources that address environmental or global climate change issues and if India carries on in 'business as usual' mode, it's also going to be a serious problem globally.

So, India was looking at the global good?

No, India was looking at India's good. But it was understood that it also has global benefits and that is how it was a kind of win-win situation. We still approach this from the same spirit.

Is it still a win-win situation for the Americans?

Yes, I think so.

How would you categorise it for India?

If all our concerns are met, certainly it is a win-win situation for us.

What about the issue of 'fallback safeguards'?

What has been agreed to is IAEA safeguards. So getting into fallback or bilateral safeguards is certainly a matter extraneous to this.

The Prime Minister said he will not allow American inspectors to roam around reactors. Is that something you also strongly believe in?

That's exactly correct.

So, in this 'work in progress,' will you be able to conduct an independent strategic programme, or will we have Americans looking over our shoulders?

There is no question of that. We have to maintain autonomy in our strategic programme. We have to maintain autonomy in the development of the 3-stage nuclear programme because ultimately we have to develop our energy systems that are based on the energy resources available in the country. Which in turn means as far as nuclear is concerned we have to be able to go to the third stage of the nuclear programme, which is based on thorium. This is a sequential technology development process. We have come some distance but we have to be able to go forward in an autonomous manner on that programme and these are linked with the fuel cycle activities and that's where it is important that we maintain that autonomy. Similarly R&D, we must be able to carry our R&D based on our own autonomous decisions.

India was also supposed to get full nuclear cooperation.

The July 18 joint statement talked about full civil nuclear cooperation. After all, India is a unique case. So consistent with the unique situation of India, one would expect that this provision of the July 18 joint statement would be brought into reality. It is important because even in the civil domain, reprocessing and enrichment, heavy water are all very important areas and if the two countries have agreed that there will be full civil nuclear cooperation then it stands to reason that that determination has to be translated into reality.

What happens if we don't get the 123 Agreement?

Well, the domestic programme is there, we will carry on.

So will we just chug along slowly, or can we expedite it?

No, no our programme is moving quite fast. We are half way through the first stage, we have begun the second stage already and in fact even today, I can say with a degree of pride that if you look at the totality of the nuclear power and nuclear fuel cycle technology, India is one of the very few countries which has a total mastery on all aspects, so our mission is to go through thermal reactors, to fast reactors, to thorium reactors and we are moving rapidly on that path. That will continue.

In the end, what is your outlook on the future negotiations on the Indo-U.S. nuclear deal?

We have to be clear that we are operating within the ambit of the July 18 and March 2 documents. In so doing, one has to ensure that while we are able to develop civil nuclear cooperation to address 'additionality' to the energy requirements of the country, this should in no way impinge on both the strategic programme as well as the domestic development of the three-stage nuclear programme and domestic R&D in the nuclear area.

So this where we have to seek clarifications, be clear about it ourselves and only that can be the basis for moving forward.

(The author is a New Delhi-based correspondent for Science magazine and Science Editor for NDTV.)

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