



## WESTINGHOUSE FILES FOR BANKRUPTCY: IS THE DEAL STILL ON?

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In 2008, New Delhi and Washington signed the Civil Nuclear Cooperation Agreement. It received mixed responses from experts, for and against it. Yet, the deal became what has been touted as the 'centrepiece' in Indo-US relations, having varied strategic and diplomatic implications. When focussing on the civilian nuclear aspect, the agreement promised India supply of civilian nuclear technology under the condition that India adheres to the Separation Plan and other IAEA (International Atomic Energy Agency) safeguards. India did not hesitate to play by the rules. This was a move to push forward India's plan to expand its nuclear power programme. Commercially, the deal promised big gains for the US. The International Trade Administration, US Department of Commerce, estimated the deal to be worth at least \$100 billion.<sup>1</sup> For India, it would be a great push in boosting its energy sector to further enhance its Gross Domestic Product (GDP) growth and to abide by the international parameters to tackle climate change. In fact, it

was believed that India was about to embark on its very own civil nuclear renaissance.

It has been nearly a decade since the signing of the agreement and not much has come to fruition. The industry, on both sides, encountered a stumbling block when the Indian Parliament passed the Civil Liability for Nuclear Damage Act in 2010. The law was viewed as problematic by foreign investors as it presents an array of clauses that deem suppliers liable. However, this was sorted out and the road was clear again for India to fully engage in the global nuclear commerce. Yet, India awaits American reactors to be set up as planned. The deal promises India the construction of six nuclear reactors in Andhra Pradesh. These are the AP-1000 reactors. The AP-1000 is a nuclear power reactor designed and sold by Westinghouse Electric Company, in which Toshiba has majority ownership. In 2015, Prime Minister Narendra Modi and US President Barack Obama met and set the parameters to implement the deal. New

Delhi and Washington agreed to work on finalising all contractual arrangements by June 2017. Just as the date is approaching, Westinghouse has filed for bankruptcy on 29 March 2017.

This comes in as an ironic twist of events as the Indian government sets a target to triple nuclear power generation at about 15,000 MWe by 2024. Currently, India's nuclear power programme, which functions under the Nuclear Power Corporation of India Ltd. (NPCIL), has a generating capacity of 5,780 MW.<sup>2</sup> The commercial operation of the second unit of the Kudankulam Nuclear Power Plant will increase the country's total generating capacity to a total of 6,780 MWe. India has done its part to ensure that there would be a smooth process for setting up the reactors. Ideally, this process would start after all the decisions have been made by the June-deadline. Yet, the Americans have ensured that the recent move by Westinghouse would not affect the civilian nuclear deal between New Delhi and Washington.

The question, therefore, is – How far can India hope for the promises to be delivered? Westinghouse CEO Jose Gutierrez visited India earlier in March for talks with NPCIL and the Department of Atomic Energy, according to Reuters. Indian engineering group Larsen & Toubro, a potential partner that has signed a memorandum of understanding with Westinghouse to supply nuclear plant elements

and do civil works, still views the India project as viable. "As long as the guarantees are in place, I see no reason why this won't go ahead," Shailendra Roy, head of L&T's power business, told Reuters, without elaborating on the nature of any such guarantees.<sup>3</sup> This is not very reassuring because the clarity that had been given was weeks before Westinghouse filed for bankruptcy. An Indian news report says, "United States reassured India that it will not default on its commitment to building six nuclear reactors in Andhra Pradesh, though it's not clear if the original deadline of June for finalising the multi-billion dollar deal will be met."<sup>4</sup> A US embassy spokesperson clarified, "We understand that Westinghouse continues to stand behind the delivery model that it presented in its Technical Commercial Offer to India, and looks forward to progress on an agreement in 2017."<sup>5</sup> The spokesperson reaffirmed Washington's "commitment to civil nuclear cooperation with India." This will perhaps remain uncertain until June 2017, unless the date is further postponed. So far, it appears the deal is on.

There are a number of other stumbling blocks that stand in the way of India expanding its civil nuclear power programme. This new development will impact India, but only to a certain degree. Brahma Chellaney, in an article published by Hindustan Times, writes, "India, duped by its own hype over the 2005 nuclear deal with the US, announced plans for a huge expansion of nuclear power at a time when this

energy source was already in decline globally. Its plans indeed motivated Toshiba to acquire Westinghouse. Now India faces an embarrassing situation: The nuclear power promise is visibly fading before it has signed a single reactor contract as part of the nuclear deal.”<sup>6</sup> This perspective has been rather dominant in Indian news reports. However, this is not entirely accurate. At this juncture, India’s strategy towards achieving international cooperation in the global nuclear commerce is commendable. India has signed a deal for six reactors with the US, but, it has also signed other deals, perhaps just enough to keep the ball rolling. The situation between India and Russia is painted with a positive trend of progress. The recent deal with Japan is yet to be finalised in the Japanese Diet, yet there prevails a sense of controlled optimism. Further deals to import uranium, which is crucial for India to sustain its nuclear power programme (as India has modest reserves of nuclear fuel) continue to keep hope alive, particularly with imports from Kazakhstan, Canada, and Russia. It would be premature to predict the outcome of the Indo-US nuclear deal considering the current situation. This is but a small wound to India’s ambition to expand its nuclear power programme. Apart from its efforts to ensure international cooperation in the global nuclear commerce, India has been making steady progress in its indigenous efforts as well.

***(Disclaimer: The views and opinions expressed in this article are those of the author***

***and do not necessarily reflect the position of the Centre for Air Power Studies [CAPS]***

## NOTES

<sup>1</sup> Justin Rathke, “Growing Prospects for Sales of Civilian Nuclear Technology to India”, *International Trade Administration*, Department of Commerce, (United States of America: 2007), see [http://trade.gov/press/publications/newsletters/ita\\_0207/India\\_0207.asp#continues](http://trade.gov/press/publications/newsletters/ita_0207/India_0207.asp#continues). Accessed on 29 March 2017.

<sup>2</sup> Plants Under operation, Nuclear Power Corporation of India Limited, see <http://www.npcil.nic.in/main/AllProjectOperationDisplay.aspx>. Accessed on 29 March 2017.

<sup>3</sup> Exclusive: With India visit, Westinghouse CEO keeps nuclear project alive, Reuters, see <http://in.reuters.com/article/us-toshiba-accounting-india-idINKBN16F1LH>. Accessed on 30 March 2017. n

<sup>4</sup> ‘Westinghouse Officially Bankrupt. What Now For Andhra’s 6 Nuclear Reactors?’, *NDTV*, 29 March 2017, see <http://www.ndtv.com/india-news/westinghouse-files-for-bankruptcy-doubts-over-india-us-nuclear-deal-1674854>. Accessed on 30 March 2017.

<sup>5</sup> Ibid.

<sup>6</sup> ‘India’s nuclear power promise is fading despite the deal with US. Here’s why’, Brahma Chellaney, *Hindustan Times*, 29 march 2017, see <http://www.hindustantimes.com/opinion/india-s-nuclear-power-promise-is-fading-despite-the-deal-with-us-here-s-why/story-FICd1xdYFO5hiZv3W1Yq2J.html>. Accessed on 30 March 2017.