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Abstract: Once the 456 MW Upper Tamakoshi Hydroelectric Project is commissioned by the end of 2018, Nepal is expected to have surplus energy during the wet/monsoon season of 2019. Nepal's Energy Ministry has decided to resolve this surplus issue through Energy Banking with India whereby Nepal exports her wet season power for India's dry season import on "the same volume". This is an extremely naïve assumption even if it is for the sake of mere negotiation. Discussing the short-sightedness of Energy Banking concept, this article stresses that Nepal should have, instead, activated the other two prevailing instruments of power trading, that of bilateral and regional 2014 Indo-Nepal Electric Power Trade, Cross-Border Transmission and Grid Connectivity Agreement and the 2014 SAARC Framework Agreement for Energy Cooperation (Electricity) respectively. Activating these two agreements would have 'Open Sesame'-d the doors to Nepal's growing hydropower capabilities – a win-win situation for both countries.

Power Trading

The media² reported that during Prime Minister KP Oli's June 2018 visit to India "Nepal to Propose Power Swap with India." With Nepal having surplus energy during the wet season when the 456 MW Upper Tamakoshi comes on line by the end of 2018, the Energy Ministry plans to sell this surplus energy to India for cash. But as "determining the price of electricity becomes an issue", the Ministry is also toying with the option of Energy Banking. This Energy Banking concept, according to the Energy Ministry, gives Nepal the opportunity "to export surplus electricity to India during the wet season and import back **the same volume** of power during the dry season when there is a shortage of energy [in Nepal]." Noteworthy in this Energy Banking concept is Nepal's naïve assumption that India will agree to import Nepal's wet season energy and export her dry season energy in "**the same volume**". Surprisingly, Nepal believes the wet and dry season energy to be of the same value! Later the same media³ reported that "Nepal Electricity Authority (NEA) submitted a concept note for energy banking between Nepal and India to the Indian Embassy" as per its request and "The embassy will forward the note to the Indian Power Ministry so that it can be discussed during the Energy Secretary level Joint Steering Committee (JSC) meeting between the two countries slated to be held next week in New Delhi." Perplexing indeed is why NEA submitted the Energy Banking note to the Indian Embassy directly and not through the normal channel of Energy Ministry, Foreign Ministry and then only to the Indian Embassy! Any negotiating party keeps its strategy close to its chest and exposes them only slowly at the negotiating table. Perhaps, this is one of the reasons why Nepal is always at the receiving-end of Indo-Nepal talks/MOUs/agreements!

What Purpose? – The 2014 Indo-Nepal Power Trade Agreement

Also, perplexing is, why Nepal immediately resorted to this Energy Banking concept when other instruments of energy trading are already available between the two countries. There is, for instance, the bilateral Indo-Nepal Electric Power Trade, Cross-Border Transmission and

Grid Connectivity Agreement initialed on October 21, 2014. Incorporated in that agreement are the following two important clauses related to "non-discriminatory access" to cross-border power trading:

ARTICLE-II

(b) The Parties shall allow **non-discriminatory access to the cross-border interconnection(s)** for all authorized/licensed participants in the common electricity market.

ARTICLE-IV

(b) The Parties shall allow the authorized/licensed electricity producers/buyers/traders of each country **to engage in cross-border electricity trading**, including that through Power Exchanges, and to seek cross-border transmission access as per the laws of the respective country.

When such "non-discriminatory access" instrument is available, the Energy Ministry mandarins opted for the easier short-term Energy Banking mode and refrained from using the tougher "determining the price of electricity" long-term power trading access into Indian market. Nepal Electricity Authority (NEA), as an authorized/licensed participant, can engage in non-discriminatory cross-border interconnection(s) in the common electricity market. This 2014 Indo-Nepal agreement provided Nepal access to Indian electricity market. In fact, India is presently enjoying this very access to Nepalese market to the tune of around 500 MW during the dry season. India, however, skillfully shielded her own vast market by issuing the discriminatory **Guidelines⁴ on Cross Border Trade of Electricity** on December 5, 2016 citing electricity trade involved "**issues of strategic, national and economic importance**". More perplexing is the Nepalese mandarins' naïve assumption that India will concur to trade the Wet/Dry Season energy on *equal volumes* when electricity tariffs⁵ vary on hour-by-hour, day-by-day and month-by-month basis.

Merely a Decorative Ornament? – The 2014 SAARC Framework Agreement for Energy Cooperation (Electricity)

The SAARC Framework Agreement for Energy Cooperation (Electricity) initialed by the eight SAARC member countries (*Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka*) in Kathmandu on November 27, 2014 is the other prevailing instrument to electricity trading with the following preamble:

*Recognizing the importance of electricity in promoting economic growth and improving the quality of life. Realizing the common benefits of **cross border electricity exchanges and trade among the SAARC Member States** leading to optimal utilization of regional electricity generating resources, enhanced grid security, and electricity trade arising from diversity in peak demand and seasonal variations;*

The SAARC Framework Agreement for Energy Cooperation (Electricity) stated:

Article 1

Buying and Selling Entities: *Buying and Selling Entities means any authorized public or private power producer, power utility, trading company, transmission utility, distribution company, or any other institution established and registered under the laws of any one of the Member States having **permission of buying and selling of electricity within and outside the country** in which it is registered.*

Article 12

Transmission Access: *Member States shall, for the purpose of cross-border trade, **enable non-discriminatory access** to the respective transmission grids as per the applicable laws, rules, regulations and applicable inter-governmental bilateral trade agreements.*

Article 13

Facilitating Buying and Selling Entities: *Member States shall **enable Buying and Selling Entities to engage in cross-border electricity trading** subject to the laws and regulations of the concerned Member States.*

This means SAARC Member States are entitled to non-discriminatory access and can engage in cross-border electricity trading. Though Nepal is totally India-locked on the east, west and south, she is separated from Bangladesh in the south-east by a mere 18 km stretch of Indian territory appropriately called the chicken-neck. Bangladesh is keen to invest in the development of the 1,110 MW Sunkoshi II and 536 MW Sunkoshi III hydropower projects⁶ in Nepal. With that objective, Bangladesh's Prime Minister Sheikh Hasina, after her April 7-10, 2017 State Visit to India, had the following statement incorporated in the April 8, 2017 India-Bangladesh Joint Statement⁷ :

28. The two Prime Ministers emphasized the advantages of sub-regional cooperation in the areas of power, water resources, trade, transit and connectivity for mutual benefit. They welcomed the fact that a Trilateral

*Memorandum of Understanding between Bangladesh, Bhutan and India for Cooperation in the field of Hydroelectric Power had been worked out and noted that it would be signed at an occasion when leaders of all three countries would be present together. **Prime Minister Hasina requested Prime Minister Modi for facilitation of cross-border power sector cooperation with Nepal.***

There are two noteworthy elements in this joint statement on power sector. The first is the 'Trilateral Memorandum of Understanding between Bangladesh, Bhutan and India for Cooperation in the field of Hydroelectric Power'. Nepal has been conveniently detached from this sub-regional "Trilateral" cooperation. Wanting only the Brahmaputra⁸ riparian, India conveniently isolated Nepal as the Ganges Dalit to be dealt appropriately on the usual one to one tete-a-tete basis. The second, a far more important joint statement, is 'Prime Minister Hasina requested Prime Minister Modi for facilitation of cross-border power sector cooperation with Nepal.' Prime Minister Hasina, using the **2014 SAARC Framework Agreement for Energy Cooperation (Electricity)** instrument, raised the 'cross-border facilitation' cooperation between Bangladesh and Nepal. India's Prime Minister Narendra Modi was, however, ominously silent in the joint statement. This silence was potent as the Bangladeshi State Minister for Power and Energy, Nasrul Hamid, was quoted⁹ only in January 2017 as having said "We have **received Indian consent to import power from Nepal. Now Bangladesh will sign a deal with Nepal to set up a power plant by investing there.**"

This does not, of course, mean that Nepal should also remain in deathly silence on "cross-border facilitation" cooperation with Bangladesh. Nepal has every right to question the very purpose of **Indo-Nepal Power Trade Agreement** and the **SAARC Framework Agreement for Energy Cooperation (Electricity)**. Are they framed to be mere decorative ornaments for display to the international community as and when required? These two agreements, if implemented in good faith and trust, could have far reaching implications in improving the quality of life of the teeming population of this region mired in deep poverty. Subsequent to Prime Minister Hasina's April 2017 visit to India, Nepal's two Prime Ministers, Sher Bahadur Deuba and Khadga Prasad Sharma Oli, also made their ritual State Visits to India in August 2017 and April 2018 respectively. Intriguingly, however, Nepal's extremely important "facilitation of cross-border" cooperation with Bangladesh failed to appear in the joint statements of not only SB Deuba but also the all-powerful KP Sharma Oli. This access to electricity trade with Bangladesh would have provided Nepal the opportunity to sell her surplus Wet Season energy to Bangladesh and not rely solely on the mercy of India. Even the Energy Swap/Banking, the Nepalese media highlighted just prior to Prime Minister KP Sharma Oli's visit to India, failed to register in the two Prime Ministers' Joint Statement. India's policy to maintain her historical strangle-hold on landlocked Nepal has been manifested by the three¹⁰ economic blockades of 1970, 1989 and 2015. So far-sighted is

India that her blockade policy on Nepal extended even to electricity transit facilities.

United Nations's Almaty/Kazakhstan Conference on Land Locked Countries in 2003 – Electricity Transmission Lines as Transit Facility

On India's acute allergy to provide Nepal access to electricity trade with Bangladesh, it is best to quote¹¹ Surya Nath Upadhyay, former Water Resources Secretary, who in turn quotes¹² Murari Raj Sharma, former Foreign Secretary:

*“...the effort to include the **electricity transmission line as transit facility** needed to be picked up from where it was left at the end of the Almaty conference on Land Locked Countries 2003. During my ambassadorship in New York, we had made a proposal to that effect and thrown in oil pipe lines to make the proposal palatable to transit countries. As we were preparing for the conference, transit countries resisted the proposal until the conference started. Finally, they agreed to **include pipe lines and not the electricity lines**. After intensive lobbying accompanied by threats to drop pipelines also from the final agreement, **most transit countries relented on power lines**. However, **India held out, insisting that there should be bilateral agreement before bringing the issue to a multilateral forum**. So, it became a sort of **India-Nepal issue**. On the last night of the Almaty meet, I had left [for] my room tired when Purushottam Ojha (Secretary of the Ministry of Trade and Supplies of the Government of Nepal participating in the conference along with the writer) came running to my room. He was frightened. He told me that an Indian delegate from the capital pulled him aside and **threatened unpleasant consequences if Nepal kept insisting on power lines**. I asked Kathmandu Foreign Secretary and sought the directions from the **Prime Minister Surya Bahadur Thapa**. **The instructions were predictable**. I went down to the negotiating room, obtained a pledge from the Indian delegate to take up the **issue of power lines bilaterally and drop them from the final draft of the Almaty outcome**.”*

Secretary Murari Raj Sharma's comment that Prime Minister Surya Bahadur Thapa's "instructions were predictable" is very illuminating. This capitulation to India on "electricity transmission line as transit facility" at the 2003 Almaty UN Conference was "the mother of all blunders" for Nepal. This explains Prime Minister Modi's ominous silence to Prime Minister Hasina's April 2017 request for "**facilitation of cross-border power sector cooperation with Nepal**."

Conclusion

To conclude, is Energy Banking the most suitable instrument for Nepal to trade her surplus wet season energy with India's dry season energy? Will India agree to trade the wet/dry season energy on "equal¹³ volumes" as envisioned by Nepal's Energy Ministry? What will happen to such a Banking mechanism when Nepal will have excess energy in the dry season also? Analysts

believe that, with over 2,000 MW of hydropower projects under construction¹⁴, such a surplus energy scenario will emerge in the next 3 to 5 years. Isn't it, therefore, better for Nepal to press for access to Indian markets as offered by the 2014 bilateral Indo-Nepal Power Trade Agreement? Then there is also the regional 2014 SAARC Framework for Electricity Trade entitling SAARC Member States non-discriminatory access to engage in cross-border electricity trading. As Bangladesh is keen to trade electricity with Nepal, shouldn't Nepal grab this opportunity and hit the iron while hot? Unfortunately, the Energy Ministry, as usual, opted for the path of least resistance, that of Energy Banking. By choosing that path, the Ministry bypassed the two available bilateral and regional instruments that would have 'Open Sesame'-d the doors to vast opportunities for Nepal's growing hydropower capabilities.

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Footnotes

1. Further to this June 2018 article, Kathmandu Post Money July 8, 2018 (Asar 24, 2075) under the headline **Nepal India Mull Power Banking** reported NEA and India's Central Electricity Authority (CEA) held a separate meeting to establish Power Banking deal. Furthermore, NEA's Managing Director, Kulman Ghising, who led the Nepalese delegation for the Twelfth Power Exchange Committee meeting at New Delhi on 5-6 July 2018, added "India is positive to establish such a deal. They will send the modalities adopted by various Indian agencies that are doing energy banking at their State-levels." This apparently means Power Banking concept did not originate in Nepal and India was dissatisfied with NEA's concept note provided to the Indian Embassy prior to the NEA/CEA meeting at New Delhi.
2. Kathmandu Post Money, April 1, 2018 (Chaitra 18, 2074)
3. Kathmandu Post Money, April 13, 2018 (Chaitra 30, 2074)
4. India's December 2016 Guidelines provide preferential treatment to Indian entities wishing to export power from Nepal to India. While Indian entities with 51% or more ownership require a one-time approval, all other participating entities are eligible to participate on 'case to case basis.' Many interpret this Guideline as being targeted principally towards the growing Chinese investment in Nepal's hydropower.
5. India's average **Spot Power Price** in 2018 **IRs 3.43/kWh**, a leap from IRs 2.50/kWh of past two years; **monthly Peak Power Prices** in 2018 averaged **IRs 7.10/kWh**, twice the levels in 2017; **2018 March's average price was IRs 3.97/kWh** and analysts believe this will shoot up further in future due

- to “structural and seasonal factors.” – CRISIL Infrastructure India, S & P Global Company, Mumbai, April 3, 2018. To be also noted is that Nepal presently (June 2018) imports Muzaffarpur-Dhalkebar power @ **IRs 3.98/kWh** and Kataiya-Duhbi @ **IRs 5.55/kWh** at 132 kV voltage level from India. At the recent Twelfth Indo-Nepal Power Exchange Committee meeting of 5-6 July 2018 at New Delhi, India’s CEA proposed a 15 to 20 percent price hike – *Kathmandu Post Money July 8, 2018*. Though *Kathmandu Post* reported ‘NEA Rejects India’s Proposal’, Nepal’s only available Option to oppose price hike is to resort back to Load Shedding as it imports a heavy 500 MW of Indian power during the dry season.
6. *Kathmandu Post, Money, December 11, 2016*. In fact, Nepal’s media have also reported that though the Nepalese Commerce Minister initialed the agreement with his Bangladesh counterpart, Nepal’s Energy Ministry has, for some reasons, evinced no interests so far.
 7. Joint Statement issued by Ministry of External Affairs, Government of India, April 8, 2017.
 8. During the Farakka negotiations with Bangladesh, India always maintained the Brahmaputra-Ganga basin as being one single entity.
 9. *Kathmandu Post, Money, January 23, 2017*. KPost quoted Bangladeshi newspaper *The Financial Express*.
 10. In 1970, for terminating the services of Indian Army Wireless Operators at 17 check-posts on the Nepal-China border from Olangchungola/Taplejung to Tinkar/Darchula; 1989, for importing Chinese arms violating India’s sacrosanct 1950 *Treaty of Peace and Friendship* signed with the ailing about to be toppled Rana government and; 2015, for not amending/delaying Nepal’s Constitution despite India’s firm urgings through her Foreign Secretary.
 11. Surya Nath Upadhyay. *International Watercourses Law and a Perspective on Nepal-India Cooperation*. 2012. Ekta Books Distributors Pvt. Ltd. Kathmandu.
 12. Murari Raj Sharma, *Broaden Markets for Higher Investment*, Republica, Sunday, January 30, 2011.
 13. The Energy Ministry itself made the incomprehensible policy decision on PPA Guidelines by announcing new electricity purchase rates in January 2017: i) Per unit purchase rates for i) **Reservoir** – Dec-May Rs 12.40, June-Nov Rs 7.10 ii) **Peaking ROR** – Dec-May upto 6 hours Rs 10.55, non-peaking Rs 8.40 iii) **ROR** over 100 Mw – June-Nov Rs 4.80, mid-Dec to mid-April Rs 8.40 and mid-April to mid-Dec Rs 4.80 **Kathmandu Post, January 10, 2017**. This decision was diplomatically objected by IFC: *IFC urges government to revise provisions in PPA Guidelines.* **Kathmandu Post January 29, 2017**. It was also reported that power purchase negotiations between NEA and China’s Three Gorges on the 750 MW West Seti storage project failed because the Energy Ministry refused to back down from its PPA Guidelines. NEA recently signed the PPA with its subsidiary, Tanahu Hydro Project, for the 140 MW storage project at rates as laid down by the Ministry’s PPA Guidelines – **Kathmandu Post June 30, 2018**.
 14. *NEA’s Annual Report of August 2017 (Bhadra 2074)*. NEA has already concluded PPAs with another 910 MW of hydropower projects that are awaiting Financial Closure.