

US-INDIA EMERGING STRATEGIC PARTNERSHIP

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Abstract

Next Steps in Strategic Partnership (NSSP), a bilateral initiative between US and India announced in January 2004¹, was aimed at expanding cooperation in the areas of civilian nuclear programs, space and missile defense technology and trade. The initiative has been realized into an alliance with 10-Year Defense Pact, paving the way for stepped up military ties, provision of nuclear technology, including joint weapons production and cooperation on missile defense.² The pact becomes a tool to transfer high-technology items to India without any regard for nonproliferation pledges made by the U.S. during the last 38 years or more. It is not just a technological trade deal rather it is an attempt of its own kind to reward a bad behavior, and damaging the international efforts of non-proliferation of nuclear weapons spread over last sixty years or more. Though, overtly it has been projected as marrying up or strategic partnership of two great democracies, covertly it has hidden motives like: developing India as a military counter-weight to China, checking the threat of radical Islam emerging in Pakistan and the Muslim World, controlling the flow of traffic especially oil (from the Gulf and the Central Asia) in the Indian Ocean, neutralized Pakistan's hard nuclear capabilities, and exert influence on the changing patterns of cooperation and alliances in the region. However, it remains a big question, whether India will really benefit from the emerging partnership or becomes another partner of America, who is used at its best by the America for coming ten years and left cold bloodily once American interests are met with.

The "New Framework for the US-India Defense Relationship" (NFDR), signed on June 27th, 2005 by U.S. Defense Secretary Donald Rumsfeld and India's Defense Minister Pranab Mukherjee has offered high-tech

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cooperation, expanded economic ties, and energy cooperation to India. It has also stepped up a strategic dialogue with India to boost missile defense and other security initiatives, launching a "defense procurement and production group," and work to cooperate on military "research, development, testing and evaluation". Furthermore, the MFDR envisages joint and combined exercises and exchanges between sides, naval pilot training and increased cooperation in the areas of worldwide peacekeeping operations and expansion of interaction with other nations "in ways that promote regional and global peace and stability." Among many analysts, the deal indicates that India and Pakistan are no longer perceived as equals in Washington. Pakistan is viewed as a middle power and India has the much greater potential down the road. Mr Mukherjee said the agreement should not be seen as coming at the expense of Russia, which supplies the Indian armed forces with most of its hardware and is competing with the US, France and Sweden for a \$4bn-\$5bn multi-role fighter contract. ³

The deal has set the grounds for new international and regional engagements and estrangements in the already tensed global environment. Old friends are looking each other with doubts and suspicions of mistrust and newly wedded partners are aligning themselves along the new lines. The web of non-proliferation treaties and controls designed to halt the bomb's spread, which were once violated by the North Korea, are being repudiated by the America- the champion of non proliferation and the largest democracy of the world. South Asia, which was approaching to peace and harmony, where language of peace was becoming louder than the sounds of Pokhran and Chagi, where hard earned balance of power was ensuring peace, is once again inclined moving to reclaim its past of conflict and coercion due to the deal. Critics

point out that by providing access to nuclear technology to India, (a defaulter of NPT and CTBT), U.S has lost moral grounds to oppose Iranian pursuit of nuclear know how for peaceful purposes. Peace loving part of international community is stunned on the initiative and raising voices and questions as consequential to the US- India Nuclear:

- The proposed nuclear cooperation with India without further non-proliferation commitments will have a deleterious effect on vital nuclear non-proliferation efforts.
- Carving out an exception for India would significantly undermine the Nuclear Non-Proliferation Treaty (NPT), which for thirty-five years has kept the number of nuclear weapon states under ten, rather than a dozen.
- The proposed exception would enable India to expand its nuclear weapons production significantly beyond its current production level by freeing up India's limited uranium resources for its military program.
- In a reference to Iran and North Korea; the proposed exception for India also risks significantly complicating on-going negotiations to prevent the spread of nuclear weapons and bomb-grade material?

Foregoing discussion and debate in view, the paper examines the New Framework for the US-India Defense Relationship, discusses the set of reciprocal steps agreed upon by India and the United States, reviews the extent of technology transfer permissible under existing U.S. nonproliferation regulations, and presents some preliminary conclusions on the agreement. The paper will also explore the concern about India's

ties to Iran, assessing about whether India will prove a reliable strategic partner to U.S as expected by President Bush:

*We have an ambitious agenda with India. Our agenda is practical. It builds on a relationship that has never been better. India is a global leader, as well as a good friend. ... My trip will remind everybody about the strengthening of an important strategic partnership. We'll work together in practical ways to promote a hopeful future for citizens in both of our nations.*⁴

Historic Traces of US- India Nuclear Cooperation

The United States and India peaceful nuclear cooperation starts with “Atoms for Peace” program in 1950s.⁵ Notwithstanding to the real aim of the ‘Atom for Peace’, Eisenhower’s policies did hasten the international diffusion of scientific and industrial nuclear technology, and some recipient nations; Israel, and India did divert U.S. nuclear assistance to military uses.⁶ In Eisenhower’s eight years in office, the U.S. nuclear stockpile grew from 1,005 to more than 20,000 weapons.⁷ In late 1955, for example, the U.S. Agency for International Development put on a large exhibit at the New Delhi Trade Fair featuring a 30-foot-high reactor diagram, “hot” laboratories, and numerous working models. Nearly two million Indians attended.⁸ The United States supplied India with two light-water reactors at Tarapur, provided nuclear fuel for a time, and allowed Indian scientists study at U.S. nuclear laboratories under 1963- agreement. Study of the record reveals that in September 1955, Isador Rabi, chairman of the Atomic Energy Commission General Advisory Committee, told State Department nuclear affairs adviser Gerard Smith that, without effective international controls to prevent the diversion of commercial nuclear

facilities to military uses, “even a country like India, when it had some plutonium production, would go into the weapons business.”⁹

The US optimism to deliver prosperity and peace to the world through ‘Atom for Peace’ did not abate until India’s 1974 nuclear explosive test demonstrated the dangerous potential of “peaceful” nuclear technology. The 1974 test resulted into Congress decision to prohibit further nuclear assistance to India.¹⁰ Therefore, this cooperation ceased in 1980, on its refusal to place all of its nuclear activities under the full scope safeguards of the International Atomic Energy Agency (IAEA). As a result, the United States isolated India for twenty-five years, refusing nuclear cooperation and trying to convince other countries to do the same. Did U.S. policymakers not realize that sharing nuclear information and promoting peaceful nuclear uses could stimulate the appetite for nuclear weapons and increase the bomb-making capabilities of other nations?

In response to India’s nuclear weapons tests in 1998, the United States imposed a series of economic and financial sanctions but has since then substantially relaxed these restrictions. U.S. always considered India a nuclear renegade, whose policies threatened the entire non-proliferation regime, and which must be brought to its senses so that its nuclear weapons program could be rolled back to zero. However, the trend of coming closer to India had started during the second term of President Clinton, who during the Kargil War of 1999 not only pressured Pakistan to withdraw its troops from Kargil, but also chided Pakistan for its role in promoting terrorism. The National Democratic Alliance government of India led by the BJP (Bhartiya Janta Party), sensing the changing times and the importance of good relations with the United States, initiated steps to engage in talks for controlling the proliferation of nuclear

weapons. The many rounds of talks held between Jaswant Singh and Strobe Talbott stand as testimony of these initiatives.¹¹ In 2000, the United States moved to build a "strategic partnership" with India, increasing cooperation in fields including spaceflight, satellite technology, and missile defense. President Clinton's India visit was the first turning point in the Indo-US security relationship. During his visit, President Clinton admitted that the US had ignored India over the preceding 20 years and indicated that it would end the passive impact caused by nuclear issues in future.¹² In a joint communiqué which was termed 'India-US relations: A Vision for the 21st Century', the Indo-US relationship was termed a 'continuous, constructive in political area, and beneficial in economic arena' style of new partnership.¹³ This new style of partnership, according to certain independent analyses, was formed on the basis of both the sides deriving mutual strategic benefits, economic benefits, and socio-political benefits.¹⁴ ¹⁵With a growth rate of 8.1 percent; foreign reserves of over \$100 billion; and growth in exports of manufactured goods, software, and competency in IT services; India, with a large number of English-speaking people and a fast-growing middle class, has emerged as a major consumer market for U.S. companies, and its cheap labor has also become an added source of attraction for big American companies.

During its first term, the Bush Administration began to see India as an answer to some of the problems related to maintaining the balance of power in the Asian region, and not as a continued bothersome entity. From the beginning, the Bush administration aspired to develop a plan of action to stimulate U.S.-Indian ties, and decided to stop pestering India about its nuclear program.¹⁶ President George W. Bush worked hard to quickly implement his big idea of transforming the US-India relationship

further with strategic orientation consistent with the rise of India as a regional power to be reckoned with in global settings. When the then Indian Foreign Minister, Jaswant Singh, visited Washington in April 2001, Bush told him that the new administration would continue and strengthen its predecessor's policy to promote bilateral relations. After Bush declared his new Missile Defence plan on May 1, 2001, Condoleeza Rice, then Special Assistant to the President on National Security Affairs, broke protocol and took an initiative to call Singh and introduce the U.S. missile defense policy to him; US Deputy Secretary of State, Richard Armitage, also visited India in order to muster support. This is the first time that the US has valued India as an important partner in its strategic agenda. On the other side, India's desire to go with the United States by supporting the U.S. missile defense system plan even before its closest strategic allies backed it, by not opposing the U.S. abrogation of the Anti-Ballistic Missile (ABM) treaty despite worldwide opposition, endorsing the U.S. position on climate change, and offering unconditional support and military bases for the U.S. war in Afghanistan after 9/11 were key areas which brought them strategically closer.¹⁷

The shift in Indian positions on missile defense in the context of the growing transformation of U.S.-Indian relations since the end of the Cold War, and particularly since the advent of the George W. Bush administration, has been remarkable. New Delhi's traditional opposition to strategic defenses gave way to its current consideration of missile defense for a variety of reasons. These included structural factors related to the dissolution of U.S.-Indian antagonism associated with the bipolar configuration of the Cold War; the growing recognition in Washington and New Delhi of the threat posed by weapons of mass destruction and their associated delivery systems in the hands of hostile states intent on

nuclear coercion; and the Indian and American desire to forge a new partnership grounded in democratic values but ultimately oriented toward promoting geopolitical equilibrium in Asia in the face of rising challengers such as China and problem states such as Pakistan. All of these factors combined to produce a dramatic new acceptance of strategic defenses as conducive to stability on the part of New Delhi. What is fascinating about this evolution is the manner in which missile defenses have come to reflect both an example of, and a means toward, the steady improvement in U.S.-Indian ties occurring in recent years. This, in turn, implies that a deepening bilateral relationship has become part of New Delhi's larger solution to increasing India's capacity to defeat those threats requiring active defenses in the future.

Vajpayee statement declaring the United States and India- natural allies, helped in changing US perceptions towards India further. Washington started re-looking India as not an international proliferation risk that was to be carefully managed rather being considered for high technology transfer and civil space cooperation. To discuss civil nuclear collaboration Richard Meserve Chairman U.S. Nuclear Regulatory Commission toured Tarapur Atomic Power Station and the Bhabha Atomic Research Center in February 2003.¹⁸ On July 18, 2005, President Bush and Indian Prime Minister Manmohan Singh resolved to establish a global strategic partnership, reached an agreement that would expand bilateral activities and commerce in space, civil nuclear energy, and dual-use technology.¹⁹ Signing of Indo-U.S. civil nuclear deal during the President Bush visit to India in March 2006 opened a new chapter in the relationship between India, and the United States, reminiscent of the earlier opening in the 1970s between the United States and China.²⁰ The

success of the visit is evident in the fact that both India and the United States could agree on the modalities of a civil nuclear agreement, and in addition to signing this important agreement; they also decided to work jointly for the promotion of agriculture, expanding ties to foster trade, innovation, knowledge, and global security.

While signing the legislation on the deal, President Bush stated, "the relationship between the United States and India has never been more vital, and this bill will help us meet the energy and security challenges of the 21st century."²¹ After 30 years outside the system, India will now operate its civilian nuclear energy program under internationally accepted guidelines - and the world is going to be safer as a result.²² The deal also reverses an almost 30-year policy of urging nuclear supplier states to require full-scope safeguards as a condition of nuclear cooperation with states that the NPT has defined as non-nuclear-weapon states, including India. Nonetheless, what has been initially disclosed about the pact raises a range of important issues, which will require further attention as the agreement is assessed by Nuclear Suppliers Group,²³ and the broader international community. However, a fundamental question raised by the agreement is whether it strengthens or weakens efforts to curb the spread of nuclear weapons.

The deal, which marks warming of U.S.-India relations, lifts the U.S. moratorium on nuclear trade with India, provides U.S. assistance to India's civilian nuclear energy program, and expands U.S.-Indian cooperation in energy and satellite technology. However, critics say the agreement has fundamentally reversed half a century of U.S. nonproliferation efforts, undermined attempts to prevent states like Iran and North Korea from acquiring nuclear weapons, and is most likely to

contribute to a nuclear arms race in Asia. The agreement is a bold and radical move; that has number of hidden motives, though apparently motivated by the mutual interests of both states in counterbalancing the rise of Chinese power. To realize such cooperation, the United States wants India to be accepted globally as a responsible possessor of nuclear weapons even though India will not join the Nuclear Non-Proliferation Treaty (NPT). For its part, India committed to “assume the same responsibilities and practices” as the acknowledged nuclear weapons states. This includes distinguishing India’s military nuclear facilities from civilian ones and putting all civilian facilities under International Atomic Energy Agency (IAEA) safeguards. India also agreed to extend its moratorium on nuclear testing. The US agreed to reverse its decades-old nonproliferation policy by removing obstacles to cooperation with India’s civil nuclear power program. The deal also promises other potential security benefits, notably enhancing U.S.-Indian counterterrorism cooperation. In these respects, the deal has laid the foundation for promoting the long-term strategic interests of the United States.

SALIENTS OF THE DEAL

The nuclear agreement initiated during Indian Prime Minister Man Mohan Singh’s visit to the United States in July 2005, and finalized during President Bush’s visit to India in March 2006, is exceptional as it is with a country which has not signed the NPT, and U.S. law prohibits entering into agreements with countries that have not signed the NPT, and that refuse to follow the guidelines of the IAEA. The 10-year agreement promises enhanced military co-operation, including joint weapons production, technology transfer, patrols of Asian sea-lanes and collaboration on missile defence. Though the details of the agreement are

not yet unveiled in clear terms, but some of the clear points are emerging out of it so far include the following:

- Under the nuclear agreement, India has agreed to separate its civilian and military programs and to put two-thirds of its existing reactors, and 65 percent of its generating power, under permanent safeguards with international verification, and in return the United States will supply nuclear fuel and technology to India.²⁴ India agrees to allow inspectors from the International Atomic Energy Association (IAEA), the United Nations' nuclear watchdog group, access to its civilian nuclear program. Under the agreement, eight of India's reactors are to be designated as military facilities and closed to international inspectors, while 14 others will be placed in the civilian category. However, India would decide which of its many nuclear facilities to classify as civilian. However, military facilities and stockpiles of nuclear fuel that India has produced up to now will be exempted from inspections or safeguards.
- India would be eligible to buy U.S. dual-use nuclear technology, including materials and equipment that could be used to enrich uranium or reprocess plutonium, potentially creating the material for nuclear bombs. It would also receive imported fuel for its nuclear reactors.
- The United States through the deal acknowledges India as a responsible state with advanced nuclear know-how, but it has avoided accepting India as the sixth nuclear weapon state. This also makes the nuclear deal noteworthy. America has agreed to help India acquire the same benefits and advantages as other

states with nuclear weapons: India is to be granted full civil nuclear energy co-operation, such as fuel supplies and the transfer of technology.²⁵

- India commits to sign an Additional Protocol which allows more intrusive IAEA inspections of its civilian facilities.
- India agrees to continue its moratorium on nuclear weapons testing.
- India commits to strengthening the security of its nuclear arsenals.
- India works toward negotiating a Fissile Material Cutoff Treaty (FMCT) with the United States banning the production of fissile material for weapons purposes.
- India agrees to prevent the spread of enrichment and reprocessing technologies to states that don't possess them and to support international nonproliferation efforts.
- U.S. companies will be allowed to build nuclear reactors in India and provide nuclear fuel for its civilian energy program.

U.S. INTERESTS AND OBJECTIVES IN THE SOUTH ASIA

U.S. objectives in South Asia include active, effective involvement in the region, close cooperation with all states, defusing the crisis between India and Pakistan, cooperation in the war on terrorism, strengthening democratic institutions, and economic growth for every state in the region.²⁶ Some objectives identified as strategic priorities by Assistant Secretary of State for South Asia Christina Rocca are both very sweeping

and especially salient not only for South Asia, but for the Middle East and Asia at large.

Defeating Radical Islam: Closer relations with India permit the United States to ask India to share some of its burdens in Asia, and to work for maintaining a balance of power in this region as per U.S. choosing. Henry Kissinger, while appreciating and supporting the nuclear deal with India pointed out that, in a period of terrorism and a potential clash of civilizations, both India and the United States have parallel objectives in defeating radical Islam. ²⁷In his views United States is fighting India's battles, as the spread of the radical Islam is dangerous for India as well, which is home to over 150 million Muslims. Hence, India is persuading U.S. the policy of 'my terrorist' is 'your terrorist,' approach to isolate Pakistan and its Kashmir policy.

India as a Regional Power: It has been a long outstanding desire of India and the U.S. to dominate Indian Ocean and the Gulf, which has now become the point of convergence of interests between the two. With this convergence of interests, both the United States and India have tended to become supportive of each other. In order to check emerging Islamic forces, China, Russia and any other emerging force in the region of geo-strategic importance, collaboration and cooperation between the two is pre-requisite. America, therefore, feels in its interests to convert India into a powerful regional force.

Democracy and Economic Freedom in the Muslim World: As we focus on reaching peace in the Middle East, we also recognize the profound need for democracy and market economies to meet the aspirations of a new generation. The Department will take the lead in

working with countries in the Muslim world to advance economic reform, increase educational opportunity, and boost political participation, especially for women.²⁸

A Stable and Democratic Afghanistan: Helping Afghanistan to achieve peace and stability will require a continued commitment by the Department, USAID [the U.S. Agency for International Development], and international donors to four interlocking objectives:

- Afghanistan must establish internal and external security to ensure economic reconstruction, political stability, and stem the rise in opium production;
- We must work to establish a stable, effective, and broadly representative central government;
- Economic development must bolster this new government and reduce dependence on donors; and
- We must help the people of Afghanistan meet their critical humanitarian needs while reconstruction proceeds.²⁹

Reduction of Tensions between India and Pakistan: Both countries are key partners in the war on terrorism, and vital to U.S. goal of preventing further proliferation of weapons of mass destruction and other dangerous technologies around the world. Therefore, U.S. interests demand friendly relations with both India and Pakistan, and courting of both India and Pakistan so as to use them according to its interests. This could be understood from the United States' pressures on India and Pakistan to withdraw from the Iran-India-Pakistan Gas pipeline project just because of its apprehension that it would encourage Iran to pursue its nefarious designs, despite knowing that this deal is essential for India to maintain its economic growth and to satisfy its energy needs and for

Pakistan to make money to ease some of its economic problems as well as to try peace with India.³⁰ U.S attempts to prevent outbreak of war in the subcontinent and seeking of broad-based bilateral partnerships with both India and Pakistan spanning a range of security, political, economic, social, and cultural issues should be seen in this pretext. However, it would be worthwhile to mention that the current goodwill towards India and President Musharraf of Pakistan is not out of any sudden love for them, but due to their perceived role envisaged in the War on Terrorism. It is further supplemented by the perception of the "neocons" of the Bush administration that see alliance with India as a key to maintaining control in this region, and also for checking the undesirable moves of Iran and China in the long run. However, U.S. is working with India to help complete promising economic reforms, and reap the benefits of integration into the global economy. While her interests in Pakistan to check Islamic fundamentalism, keep Afghanistan under her control, secularize Islamic culture through modernization and democratization, promote enlightened moderation to reduce extremism, and reformation of education institutions, promote rule of law, constitutional democratic governance, and economic opportunity.³¹

Specific Objectives for Regional Stability: The strategic plan elsewhere acknowledges that reducing tensions between India and Pakistan is both a regional and world priority. The plan further states: "We will press India and Pakistan toward dialogue on all issues, including Kashmir. We will continue to work with Pakistan to promote reforms that will create a more stable, democratic and prosperous nation. With India, a sister democracy, we will continue to work together on shared strategic interests. In Afghanistan, the Department and USAID will lead the international effort to establish economic reconstruction,

security, and democratic political stability, based on an effective central government and denial of safe haven for terrorists. In Nepal and Sri Lanka, we will support processes to end civil conflicts. We will take concrete steps throughout the region to empower women, emphasize protection of human rights, and help establish institutions that promote the rule of law based on international standards.”³²

Weapons of Mass Destruction: Preventing others from getting weapons of mass destruction (WMD) has been an important objective for successive U.S. administrations almost from the very beginning of the atomic age. The Bush administration State Department set several specific priorities as part of its efforts to stem proliferation that influence U.S. objectives in South Asia. There is some tension between discouraging further proliferations and working with the already proliferated states, India and Pakistan, to make their nuclear rivalry less volatile. The objectives include the following:

- Prevent proliferators, including state sponsors of terrorism and terrorist groups, from obtaining WMD and their delivery systems.
- Ensure compliance with existing multilateral treaties and adherence to regimes, including non- and counter proliferation.
- Encourage nuclear and missile restraint in South Asia.
- Strongly discourage the worldwide accumulation of separated plutonium and the accumulation or use of highly enriched uranium.
- Build international support for U.S. security goals.

Counterterrorism Policy toward South Asia: According to testimony offered by Assistant Secretary of State Christina Rocca, counterterrorism

policy has become a top priority in the aftermath of the September 11, 2001, attacks on the United States. Across the region we are involved in training military or police to better combat terrorists, and providing military and law enforcement personnel with the necessary resources to do the job. Our Anti-Terrorism Assistance to South Asia totaled over \$37 million in FY 03. We continue to share information with these allies, building a security network, to counter the terrorist network that we are working to bring down. Together, through the UN 1267 Committee, we block the financial assets of terrorist groups and individuals, thus limiting their ability to move money and fund activities.³³

ISSUES OF CONCERNS

Analysis of the deal points towards some of sharp edges of the deal which are likely to be the issues of concerns for international community in general and Pakistan in particular. Under the agreement India has to divide its nuclear facilities into civilian and military installations and to place the civilian facilities under International Atomic Energy Agency (IAEA) inspection, precluding their use for nuclear weapons. Information released so far indicates that India will place approximately two-thirds of its nuclear installations under IAEA monitoring. It also appears that plutonium that was created previously in reactors, (now being placed under IAEA inspection) will not be subject to inspection. This will provide a substantial stockpile of material for the enlargement of the Indian nuclear weapons arsenal. The issue raises few questions:

- Does nuclear energy will really solve the energy crises of India?
- Since India had not signed NPT then why did US opt to make a U turn on its nuclear policy and rewarded India for its bad behavior?

- What would be the impact of this un-inspected stockpile of material on the overall dimensions of further nuclear weapon production?
- Whether the division between civilian and military facilities constrains Indian nuclear weapons production capabilities or leaves such capabilities intact, or actually facilitates India's ability to produce more fissile material.

According to the recent report of World Watch Institute, America's leading research institute, nuclear power is not India's best option. Nuclear power provides only 3 percent of the country's electricity, and even if the 30 new nuclear plants the government hopes to build are actually completed over the next two decades, nuclear plants would still provide only 5 percent of the country's electricity and 2 percent of its total energy. Alternate energy sources are much better option than the nuclear one.³⁴

While answering second question above many analysts believe that India has got more than the nuclear deal and possibly a prelude to American strategic drama likely to be staged in near future. India, in her newly wedded strategic partnership with America is likely to become a US Base in South Asia in near future. This US base will be to check rising Islamic trends in Pakistan and to contain China, to act as a local partner to bully for US interests in the region and to strengthen control of the Arabian Sea. In order to realize the above-mentioned objectives, India along with its military muscles can be the only choice, most suited to American designs. No denying the fact, the American strategic partnership helps India to cherish her long-standing desire of regional hegemony in Indian Ocean. American latent interest also seems to be

isolating Iran by distancing India from her. However, History shows US has not given much to its friends for their survival and leaves after accomplishing its targets. Afghanistan is an example, Iraq another, then comes Pakistan whose President Musharraf seemed embarrassed and disappointed over his lost love affair with US. He seems a lonely figure all of a sudden.

Presumably, a number of nuclear power reactors, using Canadian-supplied technology, will not be placed under IAEA inspection. These facilities can be used both to produce electricity and weapons-quality plutonium. In the agreement it appears that a number of these reactors will be placed on India's military list, intended for use in the country's nuclear weapons program. It implies that the technology originally supplied by outside states that was intended for peaceful uses will now be used for military purposes. Such practices on the part of India as a "responsible state" which intends to divert technology from peaceful to military use, raises a big question mark; whether *India can be expected to reliably abide by future civil nuclear trade agreements.*

It appears that new civil nuclear cooperation by the United States and other members of the Nuclear Suppliers Group³⁵ could provide uranium supplies for the Indian nuclear power program that will enable India to use more limited indigenous uranium supplies for nuclear weapons. This raises the concern, whether such assistance from the United States would violate its obligation under the nuclear Nonproliferation Treaty to "not in any way to assist, encourage, or induce any non-nuclear weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices...." Other nuclear supplier states have similar obligations.

- Ending the nuclear trade embargo against India could create important precedents. The U.S.-India agreement will encourage other similarly situated states, such as Pakistan, to seek comparable exceptions from existing international rules of nuclear commerce; will encourage other states, such as Iran, to leave the nuclear Nonproliferation Treaty; will encourage states like Brazil, which joined the NPT in the expectation that this would provide access to civil nuclear technology denied to states outside the treaty, to reconsider their support for the treaty.
- More broadly, in promoting the agreement, the Bush Administration has emphasized that it is a key factor in cementing U.S.-Indian relations on such important issues as meeting the threat of radical Islam and serving as a military counter-weight to China. Such acts are most likely to patronize the thesis of “*Clash of Civilizations*” and delineating new boundaries for new pattern of cold war of 21st century.

IMPLICATIONS OF THE DEAL

The deal was criticized by different quarters with in and out of America, on varying reasons. Analysts recorded their serious concerns, capable of having negative fallout on international security system. However, U.S. Administration has its own point of view, calling it an initiative capable of strengthening non-proliferation and international peace.

U.S. Rationales In Support Of Deal: The administration considers “India a natural partner for the United States” because of her open, free, multiethnic and multi-religious democracy, rising global power characterized by individual freedom and the rule of law.³⁶ Their

rationales are based on following points made by the Secretary of State Condoleezza Rice:³⁷

- Past nonproliferation policies of U.S. against India had no effect on India's development of nuclear weapons and failed to prevent India and Pakistan from becoming nuclear, did little in lessening regional tensions rather brought India and Pakistan repeatedly to the brink of war.
- The initiative for provision of civil nuclear technology will advance international security, enhance energy security, further environmental protection, and increase business opportunities for U.S. and India.
- The initiative will deepen that strategic partnership and lay the foundation for cooperation on major issues in the region and beyond, unlocking the progress of our expanding relationship in other areas.
- The initiative will clearly enhance energy security. Diversifying India's energy sector will help it to meet its ever increasing needs and more importantly, ease its reliance on hydrocarbons and unstable sources like Iran.
- The initiative will benefit the environment. India's carbon emissions increased 61 percent between 1990 and 2001; that number is surpassed only by China.
- This initiative will create opportunities for American jobs. Nuclear cooperation will provide a new market for American nuclear firms, as well as assist India's economic development.

The initiative may add as many as three to 5,000 new direct jobs and about 10,000 to 15,000 indirect jobs in the United States, as the United States is able to engage in nuclear commerce and trade with India.

- The initiative is path-breaking agreement aimed at strengthening the international nuclear nonproliferation regime as this agreement does bring India into the nonproliferation framework and thus strengthen the regime. The continued isolation of the strategic partner from that regime will be a wrong policy choice.
- Owing to regional realities, India didn't accept a unilateral freeze or cap on its nuclear arsenal, therefore, its plans and policies must take into account other key countries, like China and Pakistan.
- The initiative with India does not seek to renegotiate or amend the NPT as India has never been party to the NPT and is not going to become a member of the NPT as a nuclear weapons state.
- The -civil nuclear cooperation with India will not lead to an arms race in South Asia. Nothing we or any other potential international suppliers provide to India under this initiative will enhance its military capacity or add to its military stockpile. We are far more likely to be able to influence those regional dynamics from a position of strong relations with India and indeed with Pakistan.

- The initiative does not complicate our policies toward countries like North Korea or Iran. It is simply not credible to compare India to North Korea or to Iran. While Iran and North Korea are violating their IAEA obligations, India is making new obligations by bringing the IAEA into the Indian program and seeking peaceful international cooperation.
- Iran and especially North Korea are, closed non-democratic societies. India is a democracy which is increasingly doing its part to support the international community's efforts to curb the dangerous nuclear ambitions of Iran.
- The US Chamber of Commerce urged the US Senate to clear the civil nuke bill with India well before it was debated. In a letter to Senate, the Chamber states that the bill will lay the foundation for a long and lucrative partnership, with investment opportunities already estimated at \$170 billion. While the letter focused on the business benefits, it mentioned a positive step for non-proliferation.³⁸

NEGATIVE IMPACTS OF THE DEAL

However, besides the rationales given by Rice before the House International Relations Committee stated above and expected financial gains and arranging to police the future Indian Ocean, the deal can be marked with number of negative impacts. These impacts are explained below:

Undermines Non Proliferation Regimes: The bold U.S.-India nuclear deal proposed by President Bush and Prime Minister Singh has exposed important faults in the global nonproliferation regime. The agreement is

a deliberate effort to undermine the NPT and degrade the international commitments that have held the number of states with nuclear weapons to only nine out of over 192 states world over. Honest observance/success of the treaty can be measured from the facts that till today only two (Iran, North Korea) are known to have violated the NPT. However, the signing of US-India nuclear agreement has caused serious set backs to the treaty and non-proliferation regime as follow:

- Article 1 of the treaty says nations that possess nuclear weapons agree not to help states that do not possess weapons to acquire them.
- The NPT is built on consensus that rewards states that foreswear nuclear weapons and on the belief that proliferation would undermine international security. It is a necessary bargain between nuclear weapon states and non-nuclear weapon states that the international community should uphold and strengthen to ensure its continued viability.
- The offer of nuclear assistance to India reverses decades of U.S. policy and lifts the moratorium on nuclear commerce with India. Although the Bush administration maintains that the greatest threat to U.S. and global security is nuclear proliferation, the agreement loosens export control laws and clears the way to provide nuclear assistance to a country that has not signed the Non-Proliferation Treaty, an international agreement designed to stop the spread of deadly nuclear technology.
- Effective diplomatic pressure has over the years prevented, or at least delayed, development of nuclear weapons programs such

as in Argentina, Brazil, Iran, North Korea, and South Africa. Unilateral approaches, such as this deal between the United States and India, will only weaken the Treaty and its effectiveness

- One of the key incentives that underpin the NPT is the clause contained in Articles IV and V that make available nuclear assistance to those States that have agreed never to acquire nuclear weapons. If India, which has always remained outside the NPT, is now rewarded with technology more advanced than it used to make its nuclear weapons, it will send the message that there might be greater advantage in not joining the Treaty than being a State Party to it. It will also signal that States Parties in violation of the Treaty will suffer the consequences through international condemnation, sanctions, and possible referral to the UN Security Council, whereas states outside the Treaty who develop a nuclear weapons program will not be held accountable for their actions, and in fact will be rewarded just as those states in compliance with the Treaty are. Therefore, added to the international perception that the United States is walking back from its disarmament commitments under Article VI that underpins the bargain between nuclear weapon states and non-nuclear weapon states, this proposed deal will further undermine the reliability of the NPT by making the benefits contained in Articles IV and V available to India.
- Many critics feel that India may not have signed the NPT, but that the United States by signing the NPT had also promised not to help other countries, and only those countries who have

signed it could benefit from trade in civilian nuclear technology, and that allowing nuclear trade with India is bound to break this rule.³⁹

- Albright says that without additional measures to ensure a real barrier exists between India's military and civilian nuclear programs, the agreement "could pose serious risks to the security of the United States" by potentially allowing Indian companies to proliferate banned nuclear technology around the world.
- In addition, it could lead other suppliers including Russia and China to bend the international rules so they can sell their own nuclear technology to other countries, some of them hostile to the United States.

Fuels to Nuclear Armament Race: South Asia has been the ground where game for gaining and maintaining the balance of power has been played for past fifty years or more between India, & Pakistan and India and China. India and Pakistan, despite their poverty-ridden status in the world have spent their scarce resources in maintaining their conventional forces. Their overt nuclearization programs and overt detonation in May 1998 were in quest of their security. Had these states not maintained such a huge force structure; these resources would have sufficed to bring them at par with the developed world. However, it was felt that the arm race has reached to its logical end once both the archrivals have acquired the status of nuclear state. But, the recent deal unfortunately is likely to spark the race to armament again in the region as:

- U.S. nuclear aid to India could foster a dangerous nuclear rivalry between India and China.

- There is a risk that this deal will open the door to transfer sensitive technology to other US-friendly states such as Israel and may be used as a justification for Russian transfers of sensitive material to Iran.
- This discriminatory move will definitely increase the nuclear rivalry further between the archrivals India and Pakistan, thereby raising tensions in the conflict prone region. The changing balance of power scenario could prompt Pakistan to go elsewhere for similar terms. Robert Blackwill, (former U.S. ambassador to India) has rightly remarked , "My impression is that [the Pakistanis] are worried this will feed the Indian nuclear weapons program and therefore weaken deterrence,"⁴⁰
- China has asked India and the US to abide by the existing non-proliferation regime when formulating their N-deal. China has been reluctant to back the deal because India has never joined the NPT and the deal could threaten global nonproliferation efforts.⁴¹
- There are also apprehensions that the deal would also encourage other countries to develop their nuclear programs, and this would harm the United States' vital interest of preventing nuclear proliferation, lead to the spread of weapons-grade nuclear material, and also unleash a regional arms race in which China and Russia could be expected to do the same for Pakistan and Iran as the United States does for India. In such an atmosphere, it would be difficult for the United States to get support for sanctions against the countries known as nuclear rebels, such as Iran and North Korea.⁴²

- The Indian concession to separate military and civilian facilities and to place civil facilities under IAEA safeguards could add very little value to the global nonproliferation regime. Moreover, India, neither the United States nor the international community, will determine which Indian facilities to designate as civilian and place under safeguards and what kind of safeguards agreement(s) will apply. The agreement does not call for India to cease production of weapons-grade plutonium, thus allowing India to expand its nuclear weapons arsenal.

Old Emperor in the New Clothes: The key question is whether the United States could have accomplished its geo-strategic objectives by strengthening ties with India in the economic, scientific, and military fields without having compromised important principles of its nonproliferation policy. It is open to serious doubt whether the deal agreed upon between the United States and India in the civil nuclear area will be supportive of global nonproliferation efforts. India made other nonproliferation commitments under the joint declaration, but there is hardly any thing new. For example, India has pledged to continue a moratorium on nuclear testing. This is not an entirely new initiative, but India's pledge in the joint declaration turns a purely bilateral commitment to Pakistan not to be the first to test new nuclear weapons into a further political commitment to the United States. Similarly, India pledged to work with the United States for the conclusion of a multilateral fissile material cutoff treaty (FMCT) is also not a new concession, as India has been supporting the negotiation of such a treaty for some time. However, in the meantime, India will remain free to produce fissile materials for its nuclear weapons program, even though

the five NPT-recognized nuclear-weapon states have all ceased the production of plutonium and highly enriched uranium (HEU) for nuclear weapons purposes. China has not announced its decision to do so, but it is widely assumed to have stopped production of fissile material for nuclear weapons purposes. The absence of an Indian commitment to halt its production of weapons materials is a notable void in the agreement. Thus, the actual concessions India has promised are really quite limited and are unlikely to contribute significantly to strengthening the nonproliferation regime.

Non-Preventive Mechanism for Nuclear Weapon production: The terms of the agreement critically lack any viable mechanism to prevent India from nuclear weapons production. "We are going to be sending, or allowing others to send, fresh fuel to India—including yellowcake and lightly enriched uranium—that will free up Indian domestic sources of fuel to be solely dedicated to making many more bombs than they would otherwise have been able to make," says Henry Sokolski, executive director of the Nonproliferation Policy Education Center, a nonprofit organization dedicated to improving awareness of proliferation issues. While India has pledged that any U.S. assistance to its civilian nuclear energy program will not benefit its nuclear weapons program, experts say India could use the imported nuclear fuel to feed its civilian energy program while diverting its own nuclear fuel to weapons production. New Delhi has done similar things in the past; India claimed it was using nuclear technology for civilian purposes right up until its first nuclear weapons test in 1974.

Agreement of Discrimination & Double-Standard: The deal is clearly reflective of the play of double standards, and discriminative in character

violating international norms and non-existence of moral justice on the part of US. Following points can serve as indicators to this regard:

- Despite their successful nuclear detonation, neither U.S. law nor the NPT recognized India and Pakistan as a nuclear-weapon state. The deal *ipso facto* acknowledges India as a de facto nuclear-weapon state and not Pakistan, thereby displaying a discriminative behavior against another country of the Muslim world. It also means that the United States accepts the notion that some states are entitled to have nuclear weapons—the good guys—but is not willing to accept others—the bad guys.
- On the one hand US denies that it is recognizing India as a nuclear-weapon state, on the other, acceptance of India's nuclear-weapon program legitimizes possession of these weapons. Furthermore, allowing India to retain some of the nuclear reactors free of any safeguards and provision of fuel from USA facilitates/ frees India to increase its nuclear weapons arsenal through its own domestic uranium. Whereas, the irony is that NPT-recognized nuclear-weapon-states have ceased production of nuclear materials for nuclear weapons purposes but India is let free to produce more and more.
- The deal is a clear example of making exceptions for certain states, based on whether they are friendly governments, threatens to create a double standard that will further weaken the nuclear non-proliferation framework that rests on wholesale prohibition of nuclear proliferation.

- US stance against North Korea and Iran, denying their right to have nuclear energy programs, and strengthening India-an NPT defaulter is indicative of double standard. While Iran and North Korea are threatened for consequences on their nuclear energy program on the pretext that they have cheated on their commitments by pursuing nuclear technology, India is being provided sensitive nuclear technology as a prize to its secret development of nuclear weapons under the guise of a peaceful use program. This double standard approach may lead many of the non-nuclear weapon states to believe that India and other US-friendly states not only get a free pass, but also are rewarded when it comes to acquiring nuclear weapons, in contrast to states included in President Bush's Axis of Evil group, Iraq, Iran and North Korea.
- The deal also reinforces the perception that the United States is pursuing a unilateral approach to international relations that undermines years of successful cooperation.

CONCLUSIONS

The discussion conducted so far may lead to findings/ conclusions as follows:

- The agreement undermines the Nuclear Non-Proliferation Treaty. It also has overturned a 27-year effort to making full-scope safeguards a condition of nuclear cooperation with non-nuclear-weapon states into a universal international norm.
- The safeguards don't cover the fissile material produced by India over the last several decades of nuclear activity, but are only

applied to the facilities and material manufactured by India after the deal is finalized. Therefore, a significant question is how India, in the absence of full-scope safeguards, can provide adequate confidence that U.S. peaceful nuclear technology will not be diverted to nuclear weapons purposes."

- The deal does not ask India to cap or limit its fissile material production. Whereas, nearly all the major nuclear powers including the United States, France, Britain, and Russia are moving to limit their production.
- It does not require India to restrict the number of nuclear weapons it plans to produce.
- There are far more cost-efficient ways involving much less dangerous transfers of technology to improve India's energy and technology sectors. For example; improving India's existing electricity generating resources, restructuring the country's coal industry, and expanding the use of renewable energy sources.
- The agreement was rushed and takes unnecessary risks without adequate preparation or expert review. George Perkovich⁴³ in his article, "Faulty Promises: The U.S.-India Nuclear Deal" states that the deal was developed so secretly and quickly that it contains major faults of its own. The agreement "appears to have been formulated without a comprehensive high-level review of its potential impact on nonproliferation, the significant engagement of many of the government's most senior nonproliferation experts, or a clear plan for achieving its implementation," writes William C. Potter⁴⁴ "Indeed, it bears all

the signs of a top-down administrative directive specifically designed to circumvent the interagency review process and to minimize input from any remnants of the traditional 'nonproliferation lobby' , he states further.

- The agreement rewards bad behavior and fails to devalue nuclear weapons. The announcement of the agreement rewards India's development of nuclear weapons by conferring on India the status of a "responsible nuclear state" reinforces the perception that nuclear weapons confer prestige and power in the international arena and are necessary to become an influential power.
- The deal neither seeks a rollback in nuclear weapons nor requires India and Pakistan to cooperate to reduce the chances of a nuclear war. Instead, its premise is that India will not abandon its nuclear weapons program. Whatever bilateral assistance the Administration and Congress propose should be contingent on India's making progress in cooperating with Pakistan, securing its nuclear weapons and reducing the importance and reliance on these weapons in order to work toward rolling back its program and enhancing the stability and security of South Asia.
- Besides reversing decades of nuclear nonproliferation policy, the Bush Administration's prospective deal to share civilian nuclear technology with India could also permanently damage missile nonproliferation policy. Under the reported terms of the deal, in exchange for placing its civilian nuclear facilities under international monitoring, India would obtain a free hand to purchase previously restricted conventional weapons, most

notably Israel's *Arrow* missile defense system, a partially U.S. funded program aided by infusions of U.S. technology.⁴⁵

- The changes enacted in the deal set precedent to turn existing norms for nuclear trade into rules governed by commercial gain and making difficult to dissuade any supplier from providing nuclear assistance to countries of proliferation concern. How can United States argue against Russian assistance to Iran's nuclear power program because deal with India can be cited to justify assistance to Tehran? Similarly, China will be willing to meet the Pakistan's genuine demands re-equate the disturbed balance of power in the region.
- The nuclear agreement concluded by the Bush Administration is an acknowledgment of India as a de facto nuclear to weapon state and privileged to access to the international nuclear energy market. The Indian concession to separate military and civilian facilities and to place civil facilities under IAEA safeguards could add very little value to the global nonproliferation regime. Moreover, India, neither the United States nor the international community, will determine which Indian facilities to designate as civilian and place under safeguards. The agreement does not call for India to cease production of weapons-grade plutonium, thus allowing India to expand its nuclear weapons arsenal.
- The full ramifications that the U.S.-Indian agreement will have on the international nonproliferation regime are obvious. The administration's initiative comes on the heels of various other actions that have raised serious doubts about its support for the nonproliferation regime: its rejection of the Comprehensive Test

Ban Treaty, its downplaying of the value of IAEA safeguards in the run-up to the war in Iraq, and its refusal at the 2005 NPT Review Conference to reaffirm disarmament commitments that the United States made at a similar conference in 2000. Many critics and countries are already attacking the Bush administration for these past actions, and this latest initiative may only add to their doubts about the U.S. commitment to advancing nonproliferation objectives. To conclude with the statement of former Canadian Foreign Affairs Minister Lloyd Axworthy, who responded to the US-India deal with the remarks, "It's the ultimate in a la carte internationalism; the Americans are going it alone with different rules for everyone."

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- India should learn from US unreliable attitude with her friends in the past. U.S enters in the area as a friend or under some deal and then stick to stay at all cost. U.S. presence in Middle East, South Korea, Japan, and Afghanistan are clear examples of her imperialistic nature and colonial behavior. Therefore, India should learn from other countries (victims of U.S. love) and instead of inviting another East India company, it should learn to live peacefully with its neighbours and should focus over eradication of poverty in the region. Fighting US war is not in the interest of India. India cannot conquer Pakistan or China and arms race is not in the interest of South Asia because in the whole history of humankind, there is nothing like total victory, only clashes. India should not forget that actions have equal reactions⁴⁷ and history testifies that we can live in peace if we can accept other's right of co-existence. Unfortunately, Bush and

disciples of Chankia seem to get bored from peace prevailing in the region and they want to see the action, not in video games or movies but in the real world and the cycle goes on.

Annexure–A

**ONE HUNDRED NINTH CONGRESS
Of The United States of America**

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday, the third day of January,
Two thousand and six*

An Act

To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—UNITED STATES AND INDIA

NUCLEAR COOPERATION

SEC. 101. SHORT TITLE.

This title may be cited as the “Henry J. Hyde United StatesIndia Peaceful Atomic Energy Cooperation Act of 2006”.

SEC. 102. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy;

(2) Sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation, particularly its verification and compliance, is the keystone of United States nonproliferation policy;

(3) The NPT has been a significant success in preventing the acquisition of nuclear weapons capabilities and maintaining a stable international security situation;

(4) Countries that have never become a party to the NPT and remain outside that treaty’s legal regime pose a potential challenge to the achievement of the overall goals of global nonproliferation, because those countries have not undertaken the NPT obligation to prohibit the spread of nuclear weapons capabilities;

(5) It is in the interest of the United States to the fullest extent possible to ensure that those countries that are not States Party to the NPT are responsible in the disposition of any nuclear technology they develop;

(6) It is in the interest of the United States to enter into an agreement for nuclear cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) with a country that has never been a State Party to the NPT if—

- (A) The country has demonstrated responsible behavior with respect to the nonproliferation of technology related to nuclear weapons and the means to deliver them;
- (B) The country has a functioning and uninterrupted democratic system of government, has a foreign policy that is congruent to that of the United States, and is working with the United States on key foreign policy initiatives related to nonproliferation;
- (C) Such cooperation induces the country to promulgate and implement substantially improved protections against the proliferation of technology related to nuclear weapons and the means to deliver them, and to refrain from actions that would further the development of its nuclear weapons program; and
- (D) Such cooperation will induce the country to give greater political and material support to the achievement of United States global and regional nonproliferation objectives, especially with respect to dissuading, isolating, and, if necessary, sanctioning and containing states that sponsor terrorism and terrorist groups that are seeking to acquire a nuclear weapons capability or other weapons of mass destruction capability and the means to deliver such weapons;
- (7) The United States should continue its policy of engagement, collaboration, and exchanges with and between India and Pakistan;
- (8) Strong bilateral relations with India are in the national interest of the United States;
- (9) The United States and India share common democratic values and the potential for increasing and sustained economic engagement;
- (10) Commerce in civil nuclear energy with India by the United States and other countries has the potential to benefit the people of all countries;
- (11) Such commerce also represents a significant change in United States policy regarding commerce with countries that are not States Party to the NPT, which remains the foundation of the international nonproliferation regime;
- (12) Any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nuclear proliferation or regional arms races and maximizes India's adherence to international nonproliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG); and
- (13) The United States should not seek to facilitate or encourage the continuation of nuclear exports to India by any other party if such exports are terminated under United States law.

SEC. 103. STATEMENTS OF POLICY.

- (a) IN GENERAL.—The following shall be the policies of the United States:
- (1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.
- (2) Encourage States Party to the NPT to interpret the right to “develop research, production and use of nuclear energy for peaceful purposes”, as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.
- (3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those guidelines, and the rules and practices regarding NSG decisionmaking.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this title, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law.

(b) WITH RESPECT TO SOUTH ASIA.—The following shall be the policies of the United States with respect to South Asia:

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People's Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India's—

(A) Full participation in the Proliferation Security Initiative;

(B) Formal commitment to the Statement of Interdiction Principles of such Initiative;

(C) Public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;

(D) Demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and

(E) Ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India's full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India's civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160 (f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.

(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the requirements set forth in subsections a.(1) and a.(3) through a.(9) of such section.

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

SEC. 104. WAIVER AUTHORITY AND CONGRESSIONAL APPROVAL.

(a) IN GENERAL.—If the President makes the determination described in subsection

(b), the President may—

(1) Exempt a proposed agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection a.(2) of such section;

(2) Waive the application of section 128 of the Atomic Energy Act of 1954 (42 U.S.C. 2157) with respect to exports to India; and

(3) Waive with respect to India the application of—

(A) section 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) Section 129 of such Act (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

(b) DETERMINATION BY THE PRESIDENT.—The determination referred to in subsection (a) is a determination by the President that the following actions have occurred:

(1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.

(2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India's civil nuclear facilities.

(3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India's civil nuclear program.

(4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.

(5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.

(6) India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through—

(A) The enactment and effective enforcement of comprehensive export control legislation and regulations;

(B) Harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the NSG; and

(C) Adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence.

(7) The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

(c) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—The President shall submit to the appropriate congressional committees the determination made pursuant to subsection (b), together with a report detailing the basis for the determination.

(2) INFORMATION TO BE INCLUDED.—To the fullest extent available to the United States, the report referred to in paragraph (1) shall include the following information:

(A) A summary of the plan provided by India to the United States and the IAEA to separate India's civil and military nuclear facilities, materials, and programs, and the declaration made by India to the IAEA identifying India's civil facilities to be placed under IAEA safeguards, including an analysis of the credibility of such plan and declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities as declared in the plan described in subparagraph (A), together with a copy of the agreement, and a description of the progress toward its full implementation.

(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to fully and actively participate in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction.

(H) A description of the decision of the NSG relating to nuclear cooperation with India, including whether nuclear cooperation by the United States under an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is consistent with the decision, practices, and policies of the NSG.

(I) A description of the scope of peaceful cooperation envisioned by the United States and India that will be implemented under the agreement for nuclear cooperation, including whether such cooperation will include the provision of enrichment and reprocessing technology.

(J) A description of the steps taken to ensure that proposed United States civil nuclear cooperation with India will not in any way assist India's nuclear weapons program.

(d) RESTRICTIONS ON NUCLEAR TRANSFERS.—

(1) IN GENERAL.—Pursuant to the obligations of the United States under Article I of the NPT, nothing in this title constitutes authority to carry out any civil nuclear cooperation between the United States and a country that is not a nuclearweapon State Party to the NPT that would in any way assist, encourage, or induce that country to manufacture or otherwise acquire nuclear weapons or nuclear explosive devices.

(2) NSG TRANSFER GUIDELINES.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, no item subject to such agreement or subject to the transfer guidelines of the NSG, or to NSG decisions related thereto, may be transferred to India if such transfer would be inconsistent with the transfer guidelines of the NSG in effect on the date of the transfer.

(3) TERMINATION OF NUCLEAR TRANSFERS TO INDIA.—

(A) IN GENERAL.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, and except as provided under subparagraph (B), exports of nuclear and nuclear-related material, equipment, or technology to India shall be terminated if there is any materially significant transfer by an Indian person of—

- (i) Nuclear or nuclear-related material, equipment, or technology that is not consistent with NSG guidelines or decisions, or
- (ii) Ballistic missiles or missile-related equipment or technology that is not consistent with MTCR guidelines, unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.

(B) EXCEPTION.—The President may choose not to terminate exports of nuclear and nuclear-related material, equipment, and technology to India under subparagraph

(A) if—

- (i) The transfer covered under such subparagraph was made without the knowledge of the Government of India;
- (ii) At the time of the transfer, either the Government of India did not own, control, or direct the Indian person that made the transfer or the Indian person that made the transfer is a natural person who acted without the knowledge of any entity described in subparagraph (B) or (C) of section 110(5); and
- (iii) The President certifies to the appropriate congressional committees that the Government of India has taken or is taking appropriate judicial or other enforcement actions against the Indian person with respect to such transfer.

(4) EXPORTS, REEXPORTS, TRANSFERS, AND RETRANSFERS TO INDIA RELATED TO ENRICHMENT, REPROCESSING, AND HEAVY WATER PRODUCTION.—

(A) IN GENERAL.—

- (i) NUCLEAR REGULATORY COMMISSION.—The Nuclear Regulatory Commission may only issue licenses for the export or reexport to India of any equipment, components, or materials related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water if the

requirements of subparagraph (B) are met.

(ii) SECRETARY OF ENERGY.—The Secretary of Energy may only issue authorizations for the transfer or retransfer to India of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water (including under the terms of a subsequent arrangement under section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160)) if the requirements of subparagraph (B) are met.

(B) REQUIREMENTS FOR APPROVALS.—Exports, reexports, transfers, and retransfers referred to in subparagraph (A) may only be approved if—

(i) The end user—

(I) Is a multinational facility participating in an IAEA-approved program to provide alternatives to national fuel cycle capabilities; or

(II) Is a facility participating in, and the export, reexport, transfer, or retransfer is associated with, a bilateral or multinational program to develop a proliferation resistant fuel cycle;

(ii) Appropriate measures are in place at any facility referred to in clause (i) to ensure that no sensitive nuclear technology, as defined in section 4 (5) of the Nuclear Nonproliferation Act of 1978 (22 U.S.C. 3203 (5)), will be diverted to any person, site, facility, location, or program not under IAEA safeguards; and

(iii) The President determines that the export, reexport, transfer, or retransfer will not assist in the manufacture or acquisition of nuclear explosive devices or the production of fissile material for military purposes.

(5) NUCLEAR EXPORT ACCOUNTABILITY PROGRAM.—

(A) IN GENERAL.—The President shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment, and technology sold, leased, exported, or re-exported to India so as to ensure—

(i) Full implementation of the protections required under section 123 a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (a)(1)); and

(ii) United States compliance with Article I of the NPT.

(B) MEASURES.—The measures taken pursuant to subparagraph (A) shall include the following:

(i) Obtaining and implementing assurances and conditions pursuant to the export licensing authorities of the Nuclear Regulatory Commission and the Department of Commerce and the authorizing authorities of the Department of Energy, including, as appropriate, conditions regarding end-use monitoring.

(ii) A detailed system of reporting and accounting for technology transfers, including any retransfers in India, authorized by the Department of Energy pursuant to section 57 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)). Such system shall be capable of providing assurances that—

(I) The identified recipients of the nuclear technology are authorized to receive the nuclear technology;

(II) The nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities and will not be used for any military or nuclear explosive purpose; and

(III) The nuclear technology identified for transfer will not be retransferred without the prior consent of the United States, and facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

(iii) In the event the IAEA is unable to implement safeguards as required by an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), appropriate assurance that arrangements will be put in place expeditiously that are consistent with the requirements of section 123 a.(1) of such Act (42 U.S.C. 2153(a)(1)) regarding the maintenance of safeguards as set forth in the agreement regardless of whether the agreement is terminated or suspended for any reason.

(C) IMPLEMENTATION.—The measures described in subparagraph (B) shall be implemented to provide reasonable assurances that the recipient is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding such exports, including those relating to the use, retransfer, safe handling, secure transit, and storage of such exports.

(e) JOINT RESOLUTION OF APPROVAL REQUIREMENT.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) is amended in the second proviso by inserting after “that subsection” the following: “, or an agreement exempted pursuant to section 104 (a)(1) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006,”.

(f) SUNSET.—The authority provided under subsection (a)(1) to exempt an agreement shall terminate upon the enactment of a joint resolution under section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) approving such an agreement.

(g) REPORTING TO CONGRESS.—

(1) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—The President shall keep the appropriate congressional committees fully and currently informed of the facts and implications of any significant nuclear activities of India, including—

(A) Any material noncompliance on the part of the Government of India with—

(i) The nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India;

(ii) The separation plan presented in the national parliament of India on March 7, 2006, and in greater detail on May 11, 2006;

(iii) A safeguards agreement between the Government of India and the IAEA;

(iv) An Additional Protocol between the Government of India and the IAEA;

(v) An agreement for cooperation between the Government of India and the United States Government arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) or any subsequent arrangement under section 131 of such Act (42 U.S.C. 2160);

(vi) The terms and conditions of any approved licenses regarding the export or re-export of nuclear material or dual-use material, equipment, or technology; and

(vii) United States laws and regulations regarding such licenses;

(B) The construction of a nuclear facility in India after the date of the enactment of this title;

(C) Significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced; and

(D) Changes in the purpose or operational status of any unsafeguarded nuclear fuel cycle activities in India.

(2) IMPLEMENTATION AND COMPLIANCE REPORT.—Not later than 180 days after the date on which an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) enters into force, and annually thereafter, the President shall submit to the appropriate congressional committees a report including—

- (A) A description of any additional nuclear facilities and nuclear materials that the Government of India has placed or intends to place under IAEA safeguards;
- (B) A comprehensive listing of—
- (i) All licenses that have been approved by the Nuclear Regulatory Commission and the Secretary of Energy for exports and re-exports to India under parts 110 and 810 of title 10, Code of Federal Regulations;
 - (ii) Any licenses approved by the Department of Commerce for the export or re-export to India of commodities, related technology, and software which are controlled for nuclear nonproliferation reasons on the Nuclear Referral List of the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulation, or any successor regulation;
 - (iii) Any other United States authorizations for the export or reexport to India of nuclear materials and equipment; and
 - (iv) With respect to each such license or other form of authorization described in clauses (i), (ii), and (iii)—
- (I) The number or other identifying information of each license or authorization;
- (II) The name or names of the authorized end user or end users;
- (III) The name of the site, facility, or location in India to which the export or reexport was made;
- (IV) The terms and conditions included on such licenses and authorizations;
- (V) Any post-shipment verification procedures that will be applied to such exports or re-exports; and
- (VI) The term of validity of each such license or authorization;
- (C) A description of any significant nuclear commerce between India and other countries, including any such trade that—
- (i) Is not consistent with applicable guidelines or decisions of the NSG; or
 - (ii) Would not meet the standards applied to exports or reexports of such material, equipment, or technology of United States origin;
- (D) Either—
- (i) An assessment that India is in full compliance with the commitments and obligations contained in the agreements and other documents referenced in clauses (i) through (vi) of paragraph (1)(A); or
 - (ii) An identification and analysis of all compliance issues arising with regard to the adherence by India to its commitments and obligations, including—
- (I) The measures the United States Government has taken to remedy or otherwise respond to such compliance issues;
- (II) The responses of the Government of India to such measures;
- (III) The measures the United States Government plans to take to this end in the coming year; and
- (IV) An assessment of the implications of any continued noncompliance, including whether nuclear commerce with India remains in the national security interest of the United States; (E)
- (i) An assessment of whether India is fully and actively participating in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich uranium or reprocess nuclear fuel), and the means to deliver weapons of mass destruction, including a description of the specific measures that India has taken in this regard; and
 - (ii) If India is not assessed to be fully and actively participating in such efforts, a description of—

- (I) The measures the United States Government has taken to secure India's full and active participation in such efforts;
 - (II) The responses of the Government of India to such measures; and
 - (III) The measures the United States Government plans to take in the coming year to secure India's full and active participation;
- (F) An analysis of whether United States civil nuclear cooperation with India is in any way assisting India's nuclear weapons program, including through—
- (i) The use of any United States equipment, technology, or nuclear material by India in an unsafeguarded nuclear facility or nuclear-weapons related complex;
 - (ii) The replication and subsequent use of any United States technology by India in an unsafeguarded nuclear facility or unsafeguarded nuclear weapons-related complex, or for any activity related to the research, development, testing, or manufacture of nuclear explosive devices; and
 - (iii) The provision of nuclear fuel in such a manner as to facilitate the increased production by India of highly enriched uranium or plutonium in unsafeguarded nuclear facilities;
- (G) A detailed description of—
- (i) United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, limiting, and reducing their fissile material stockpiles, including stockpiles for military purposes, pending creation of a worldwide fissile material cutoff regime, including the institution of a Fissile Material Cut-off Treaty;
 - (ii) The responses of India and Pakistan to such efforts; and
 - (iii) Assistance that the United States is providing, or would be able to provide, to India and Pakistan to promote the objectives in clause (i), consistent with its obligations under international law and existing agreements;
- (H) An estimate of—
- (i) The amount of uranium mined and milled in India during the previous year;
 - (ii) The amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and
 - (iii) The rate of production in India of—
- (I) Fissile material for nuclear explosive devices; and
- (II) Nuclear explosive devices;
- (I) An estimate of the amount of electricity India's nuclear reactors produced for civil purposes during the previous year and the proportion of such production that can be attributed to India's declared civil reactors;
- (J) An analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices;
- (K) A detailed description of efforts and progress made toward the achievement of India's—
- (i) Full participation in the Proliferation Security Initiative;
 - (ii) Formal commitment to the Statement of Interdiction Principles of such Initiative;
 - (iii) Public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Controls List of the Wassenaar Arrangement; and
 - (iv) Effective implementation of the decision described in clause (iii); and
- (L) The disposal during the previous year of spent nuclear fuel from India's civilian nuclear program, and any plans or activities relating to future disposal of such spent nuclear fuel.

(3) SUBMITTAL WITH OTHER ANNUAL REPORTS.—

(A) REPORT ON PROLIFERATION PREVENTION.—Each annual report submitted under paragraph (2) after the initial report may be submitted together with the annual report on proliferation prevention required under section 601 (a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)).

(B) REPORT ON PROGRESS TOWARD REGIONAL NON PROLIFERATION.—The information required to be submitted under paragraph (2)(F) after the initial report may be submitted together with the annual report on progress toward regional nonproliferation required under section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376 (c)).

(4) FORM.—Each report submitted under this subsection shall be submitted in unclassified form, but may contain a classified annex.

SEC. 105. UNITED STATES COMPLIANCE WITH ITS NUCLEAR NON PROLIFERATION TREATY OBLIGATIONS.

Nothing in this title constitutes authority for any action in violation of an obligation of the United States under the NPT.

SEC. 106. INOPERABILITY OF DETERMINATION AND WAIVERS.

A determination and any waiver under section 104 shall cease to be effective if the President determines that India has detonated a nuclear explosive device after the date of the enactment of this title.

SEC. 107. MTCR ADHERENT STATUS.

Congress finds that India is not an MTCR adherent for the purposes of section 73 of the Arms Export Control Act (22 U.S.C. 2797b).

SEC. 108. TECHNICAL AMENDMENT.

Section 1112(c)(4) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A486)) is amended—

(1) In subparagraph (B), by striking “and” after the semicolon at the end;

(2) By re-designating subparagraph (C) as subparagraph (D); and

(3) By inserting after subparagraph (B) the following new subparagraph:

“(C) So much of the reports required under section 104 of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 as relates to verification or compliance matters; and”.

SEC. 109. UNITED STATES-INDIA SCIENTIFIC COOPERATIVE NUCLEAR NONPROLIFERATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy, acting through the Administrator of the National Nuclear Security Administration, is authorized to establish a cooperative nuclear nonproliferation program to pursue jointly with scientists from the United States and India a program to further common nuclear nonproliferation goals, including scientific research and development efforts, with an emphasis on nuclear safeguards (in this section referred to as “the program”).

(b) CONSULTATION.—The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) NATIONAL ACADEMIES RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall enter into an agreement with the National Academies to develop recommendations for the implementation of the program.

(2) RECOMMENDATIONS.—The agreement entered into under paragraph (1) shall provide for the preparation by qualified individuals with relevant expertise and knowledge and the communication to the Secretary of Energy each fiscal year of—

(A) Recommendations for research and related programs designed to overcome existing technological barriers to nuclear nonproliferation; and

(B) An assessment of whether activities and programs funded under this section are achieving the goals of the activities and programs.

(3) PUBLIC AVAILABILITY.—The recommendations and assessments prepared under this subsection shall be made publicly available.

(d) CONSISTENCY WITH NUCLEAR NON-PROLIFERATION TREATY.—All United States activities related to the program shall be consistent with United States obligations under the Nuclear Non-Proliferation Treaty.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.

SEC. 110. DEFINITIONS.

In this title:

(1) The term “Additional Protocol” means a protocol additional to a safeguards agreement with the IAEA, as negotiated between a country and the IAEA based on a Model Additional Protocol as set forth in IAEA information circular (INFCIRC) 540.

(2) The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) The term “dual-use material, equipment, or technology” means material, equipment, or technology that may be used in nuclear or nonnuclear applications.

(4) The term “IAEA safeguards” has the meaning given the term in section 830(3) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(3)). (5) The term “Indian person” means—

(A) A natural person that is a citizen of India or is subject to the jurisdiction of the Government of India;

(B) A corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of India or has its principal place of business in India; and

(C) Any Indian governmental entity, including any governmental entity operating as a business enterprise.

(6) The terms “Missile Technology Control Regime”, “MTCR”, and “MTCR adherent” have the meanings given the terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(7) The term “nuclear materials and equipment” means source material, special nuclear material, production and utilization facilities and any components thereof, and any other items or materials that are determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)).

(8) The terms “Nuclear Non-Proliferation Treaty” and “NPT” mean the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(9) The terms “Nuclear Suppliers Group” and “NSG” refer to a group, which met initially in 1975 and has met at least annually since 1992, of Participating Governments that have promulgated and agreed to adhere to Guidelines for Nuclear Transfers (currently IAEA INFCIRC/254/Rev.8/Part 1) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/Rev.7/Part 2).

(10) The terms “nuclear weapon” and “nuclear explosive device” mean any device designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(11) The term “process” includes the term “reprocess”.

(12) The terms “reprocessing” and “reprocess” refer to the separation of irradiated nuclear materials and fission products from spent nuclear fuel.

(13) The term “sensitive nuclear technology” means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term “source material” has the meaning given the term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(15) The term “special nuclear material” has the meaning given the term in section 11 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

(16) The term “unsafeguarded nuclear fuel-cycle activity” means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) Any existing or future reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) Any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced there from.

End Notes

- ¹ . In January 2004, the United States and India agreed to expand cooperation in three specific areas: civilian nuclear activities, civilian space programs, and high technology trade. Following the finalization of the agreement President Bush made following statement: “*In November 2001, Prime Minister Vajpayee and I committed our countries to a strategic partnership. Since then, our two countries have strengthened bilateral cooperation significantly in several areas. Today we announce the next steps in implementing our shared vision. The United States and India agree to expand cooperation in three specific areas: civilian nuclear activities, civilian space programs, and high-technology trade. In addition, we agree to expand our dialogue on missile defense. Cooperation in these areas will deepen the ties of commerce and friendship between our two nations, and will increase stability in Asia and beyond.*”
- ² . The defence pact titled as “*New Framework for the US-India Defense Relationship*” (NFDR), was signed on June 27/05 by U.S. Defense Secretary Donald Rumsfeld and India’s Defense Minister Pranab Mukherjee.
- ³ . Johnson , Demetri Sevastopulo ,” *US signs formal defence pact with India*”, *Financial Times*, June 30 2005. Available at:
<http://www.ft.com/cms/s/3601a3ea-e8f8-11d9-87ea-00000e2511c8.html>
- ⁴ . President George W. Bush, February 22, 2006
- ⁵ . On December 8, 1953, President Eisenhower presented a proposal for the peaceful use of nuclear technology before the General Assembly, which became known as “Atom for peace”.
See:<http://www.atomicarchive.com/Docs/Deterrence/Atomsforpeace.shtml>
- ⁶ . Leonard Weiss, “Atoms for Peace,” *Bulletin of the Atomic Scientists* 59, no. 6 (November-December 2003), pp. 41-42.
- ⁷ . U.S. National Security Council (NSC), “Basic National Security Policy,” NSC 162/2, October 29, 1953, in *FRUS*, 1952-54, vol. 2, pp. 578-597.
- ⁸ . Operations Coordinating Board, “Progress Report on Nuclear Energy Projects and Related Information Programs,” May 23, 1956, pp. 8-9.
- ⁹ . Gerard Smith, September 14, 1955, *FRUS*, 1955-1957, vol. 20, p. 198
- ¹⁰ . See section 307 of the Nuclear Non-Proliferation Act of 1978.

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11. Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*, (Naval Postgraduate School in Monterey, California) Volume V, Issue 4, April 2006
 12. Opening statement by President Clinton in the Joint Press Conference held in Delhi, March 21, 2000.
 13. India-U.S. Relations: A Vision for the 21st Century. For full text of the communiqué, see [www.indianembassy.org/indusrel /clinton_india /joint_india_us_statement_mar_21_2000.htm](http://www.indianembassy.org/indusrel/clinton_india/joint_india_us_statement_mar_21_2000.htm).
 14. Kanti Bajpai, "India-US Foreign Policy Concerns: Cooperation and Conflict" in Gary K. Bertsch, Seema Gahlaut, and Anupam Srivastava, eds., *Engaging India: US Strategic Relations with the World's Largest Democracy*, New York: Routledge, 1999, p. 194
 15. Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*, op cit
 16. Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*, op cit
 17. Ashley J. Tellis, "The U.S. India Global Partnership How Significant for American Interests: Testimony before the House Committee of International Relations," *Carnegie Endowment for International Peace*, November 16, 2006.
 18. Rober D. Blackwill, "The Future of US- India Relations", Luncheon Address Hosted by The Confederation of Indian Industry Taj Mahal Hotel, New Delhi, July 17, 2003
 19. See text of statement at <http://www.whitehouse.gov/news/releases/2005/07/20050718-6.html>
 20. Zakaria Fareed, "Nixon to China, Bush to India; Thirty years of lectures on nonproliferation and sanctions have done nothing to stop, slow down or make India's nuclear program safer," *Newsweek*, February 27, 2006, 45.
 21. "Bush Signs Law Implementing US-India Nuclear Deal", White House, 18 December 2006
 22. *ibid*
 23. The Nuclear Suppliers Group (NSG) comprises 45 nuclear supplier states that voluntarily agree to coordinate civil nuclear export policy on nuclear and nuclear related items and to require agreed standards on such exports. Requirements include such things as recipient state acceptance of full scope

IAEA safeguards, physical protection against unauthorized use of transferred materials and facilities, and supplier consent to retransfer of items provided to the recipient.

24. Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*, op cit
25. ibid
26. Assistant Secretary of State for South Asian Affairs Christina Rocca before the House of Representatives International Relations Committee Subcommittee on Asia and Pacific, March 20, 2003, as reported at <http://usinfo.state.gov>.
27. Henry A. Kissinger, "Working with India," *The Washington Post*, March 20, 2006, A15.
28. U.S. Department of State and U.S. Agency for International Development (2003), p. 3.
29. ibid
30. Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*, op cit
31. ibid
32. U.S. Department of State and U.S. Agency for International Development (2003), p. 6.
33. U.S. Department of State and U.S. Agency for International Development (2003), pp. 13,
34. World Watch Institute, "State of the World 2006"
35. The Nuclear Suppliers Group (NSG) comprises 45 nuclear supplier states that voluntarily agree to coordinate civil nuclear export policy on nuclear and nuclear related items and to require agreed standards on such exports. Requirements include such things as recipient state acceptance of full scope IAEA safeguards, physical protection against unauthorized use of transferred materials and facilities, and supplier consent to retransfer of items provided to the recipient.
36. Secretary Condoleezza Rice, "The U.S.-India Civilian Nuclear Cooperation Agreement" Remarks Before the Senate Foreign Relations Committee, April 5, 2006. Available at: www.state.gov/secretary/rm/2006/64136.htm
37. ibid

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- ³⁸ . *Hindustan Times*, 9-20-06. http://www.hindustantimes.com/news/181_1801282,0008.htm
- ³⁹ . "Nuclear Proliferation: Strange deal" *The Economist*, March 11, 2006. Also see; Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*,(Naval Postgraduate School in Monterey, California) Volume V, Issue 4 ,April 2006
- ⁴⁰ . Robert Blackwill, a former U.S. ambassador to India, said at a Council meeting February 23.
- ⁴¹ . Times of India, 9-19-06,
<http://timesofindia.indiatimes.com/articleshow/2007104.cms>
- ⁴² . "N-Deal Will Set Table for N-Weapons Banquet," *Rediff.com*, March 27, 2006. Also see: Annpurna Nautiyal, "Current Trends in India-U.S. Relations: Hopes for a Secure Future", *Strategic Insights*,(Naval Postgraduate School in Monterey, California) Volume V, Issue 4 ,April 2006
- ⁴³ . George Perkovich.-Carnegie Endowment is also an author of *India's Nuclear Bomb*, the prize-winning history of the Indian nuclear program and U.S. policy toward it
- ⁴⁴ . Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, in "Nonproliferation Review".
- ⁴⁵ . Dana Milbank and Dafna Linzer, "U.S., India May Share Nuclear Technology," *Washington Post*, July 19, 2005, p. A1.
- ⁴⁶ . Jim Travers, "Does President Bush want us to learn to love The Bomb again?", *Toronto Star*, July 30, 2005
- ⁴⁷ . Newton's Third Law of Motion