



U.S.-India nuclear deal will strengthen nonproliferation

by Seema Gahlaut

During the July 2005 visit of Indian Prime Minister Manmohan Singh to the United States, President Bush recognized India as “a responsible state with advanced nuclear technology” and promised to discuss with the Congress and U.S. allies ways to allow India access to civilian nuclear fuel and technology for its energy sector. The deal has raised concerns that it might undermine the global nonproliferation regime. In fact, however, the existing nonproliferation regime has been unsuccessful in finding ways to force India either to de-nuclearize or to accept international safeguards on its nuclear facilities. President Bush’s bilateral deal correctly recognizes that it is far better for the nonproliferation community if India works with it rather than against it.

In exchange for the pledge, Singh committed India to separate its weapons facilities from its civilian nuclear facilities, to put most of its civilian facilities under IAEA safeguards, to sign the IAEA Additional Protocol which will apply intrusive safeguards to its civilian facilities, harmonize its export control policies with those of the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR), maintain the voluntary moratorium on nuclear testing, and participate in good faith in negotiations regarding the Fissile Material Cut-off Treaty (FMCT).

Critics have three principle objections to the deal. First, making an exception for India will show that the U.S. is not committed to nonproliferation. Second, they question how India, in the absence of full-scope safeguards, can provide reassurance that peaceful nuclear technology will not be diverted to nuclear weapons purposes. Finally, critics contend that unlike Pakistan, there is little evidence to suggest that India has transferred sensitive nuclear technologies to other non-nuclear-weapon states. Therefore, India’s promises of export restraint may be mere formalities. Each of these criticisms is based on half-truths and exaggerations.

U.S. commitment to nonproliferation

The past few years have shown that Washington is not committed to nonproliferation treaties that have the potential to harm long-term U.S. interests. At the same time, the U.S. is committed to making existing treaties more rational, pragmatic, and enforceable. For instance, the U.S. has proposed ways to rethink the Biological and Toxin Weapons Convention, the FMCT, and IAEA safeguards. Moreover, the U.S. has been the prime mover behind a number of multilateral nonproliferation agreements that sought to plug the loopholes in formal treaties: the NSG, the MTCR, and the Proliferation Security Initiative owe their existence to U.S. initiative and innovative thinking. The static nature of the NPT prevents any adjustments to geopolitical realities: it has no Plan B to ensure that countries like India can be induced to

continue supporting it from the outside. U.S. activism has again filled this gap.

More to the point, the NPT does not forbid civilian nuclear cooperation with non-signatories. It only stipulates that imported technology be placed under IAEA safeguards. Membership in NPT as a condition for civilian nuclear cooperation exists only in U.S. law (the Nuclear Nonproliferation Act of 1978 – an amendment to the Atomic Energy Act). If the Congress accepts a presidential waiver, it stands to gain significant antiproliferation and antiterrorism concessions from India despite the NPT-India deadlock.

The requirement of fullscope safeguards is a rule the NSG established in 1992 to prevent countries like North Korea, Libya, Iran, and Iraq from cheating *while being within the NPT*. The NSG, however, is not treaty-based but an informal grouping of nuclear supplier states. It was established to be more flexible and therefore stronger than the NPT because it can adapt its requirements to emerging concerns or selectively apply them. For instance, NSG clearly asserts its right to deny technology even if the recipient has fullscope safeguards and even if it is a part of a nuclear weapon free zone. NSG can – on pragmatic grounds – also admit a country as a member even if the country’s nonproliferation record is questionable. China was admitted into the NSG last year after decades of proliferating – including sharing tested nuclear weapons designs with Pakistan. Two weeks before formally joining the NSG in June 2004, China signed a deal to supply Pakistan with two nuclear reactors. India’s credentials for NSG membership are at least as good as, if not better than, China’s.

Credibility of IAEA safeguards

U.S. civilian nuclear assistance to India will be conditional and directed to only those facilities that are placed under IAEA safeguards. Its record is an excellent indicator of India’s credibility regarding its international commitments. The U.S.-supplied Tarapur facility was under safeguards for 30 years (1963-1993) as per U.S.-India-IAEA agreement. When this agreement expired, India voluntarily established a new agreement with the IAEA to continue the safeguards. The Tarapur nuclear agreement also stipulated that the U.S. would take back the spent fuel from India. Due to environmental opposition, no U.S. government has been able to do this. The spent fuel remains in India – under safeguards. Successive U.S. governments have apparently decided that this spent fuel is more secure in India than in the US! With end of the Tarapur contract, India was free to re-process that fuel as it pleased – it chose instead to place it under safeguards. India’s record of verifiable destruction of its declared chemical stockpile can be similarly vouched for by the Organization for the Prohibition of Chemical Weapons.

Moreover, if India designates some of its nuclear facilities as weapons related and therefore beyond the purview of the safeguards, it would be easier, not more difficult, for the IAEA to detect diversions of technology to these sites from the safeguarded facilities. Indeed, revelations about cheating by Iraq, Libya, North Korea, etc. have almost always involved parallel programs in separate undisclosed facilities rather than diversions from safeguarded facilities.

Importance of Indian export restraint

The NPT requires signatories to not help other states acquire nuclear weapons technology while NSG guidelines “facilitate the development of trade in this area by providing the means whereby obligations to facilitate peaceful nuclear cooperation can be implemented in a manner consistent with international nuclear nonproliferation norms.” Even while criticizing the NPT and being a target of technology denials from NSG, India has maintained strict controls over its nuclear technology and has a stellar record in not proliferating beyond its borders. In 1978 India even spurned Libya’s offer to pay India’s \$15 billion foreign debt in return for nuclear weapons.

In May 2005 India passed the WMD Act to criminalize WMD-related transactions by non-state actors, covering export, re-export, transfer, transit, transshipment, and brokering in such materials. In July 2005, India voluntarily harmonized its control list of sensitive technologies with those of the NSG and the Missile Technology Control Regime. India has expressed interest in joining the NSG but was refused. The NSG would gain from supporting the U.S.-India nuclear deal: India is the only major exporter of nuclear technologies that is not bound by NSG’s guidelines for responsible exports.

Critics of the deal see India’s commitment to export controls as a mere formality. It is dangerously short-sighted to take for granted India’s voluntary cooperation with international export controls. This fuels Indian hardliners who

question the benefits of such restraints. India is not only a potential recipient of Western technology but is also an exporter of nuclear technologies. For instance, Indian exports of advanced nuclear technology items to the U.S. have grown from \$1.336 million in 2003 to \$10.968 million (by June 2005), while its imports from the U.S. in this category have grown from \$17,000 to \$1.335 million. Only a handful of countries exported more in this advanced category to the U.S. Fortunately for the nonproliferation regime, almost all of India’s nuclear exports go to members of the NSG. If India chose to remove its voluntary export controls, it could make NSG controls irrelevant. India could easily find alternate markets if it chose to undermine the international nuclear export control regime.

New Delhi’s deal with Washington, on the other hand, is a step in the right direction: it will formalize India’s hitherto voluntary commitments regarding safeguards, non-diversion of technology, and export controls. It will also bring a large number of Indian facilities under international safeguards and ensure that they operate under international best practices in security and safety. That will get India to do a number of things that the sanctions and denial-oriented NPT and other nonproliferation agreements have failed to do in 50 years!

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