



A finely calibrated nuclear deal by Anupam Srivastava

The U.S.-India civilian nuclear negotiations reached another milestone March 2, 2006 when President George W. Bush and Prime Minister Manmohan Singh signed off on the Indian plan to separate its civilian and weapons-dedicated nuclear facilities. Under the plan, India will place about two-thirds of its facilities in the civilian complex, and work with the IAEA to institute “firewalls” to ensure their separation from the weapons complex.

While the actual separation will only finally be completed by 2014, in the judgment of the U.S. administration the plan has met the three critical benchmarks of being credible, verifiable, and defensible from a nonproliferation standpoint.

What are the next steps in this long process? First, the United States will continue to work closely with India as it negotiates a new comprehensive safeguards agreement for its declared civilian complex with the IAEA. Simultaneously, the administration will present the details of the plan to the Congress and request it to amend the Nuclear Non-Proliferation Act of 1978 to enable bilateral nuclear cooperation. Third, it will request the Nuclear Suppliers’ Group (NSG) to grant a substantive exception to India so NSG members can participate in India’s civilian complex without the risk that its benefits can be diverted to the weapons complex.

There have been several criticisms of the deal, most of which come from U.S. nonproliferation advocates. First, they charge the deal violates U.S. obligations under the Nuclear Non-Proliferation Treaty (NPT) as it seeks to provide nuclear assistance to a non-NPT state. However, the NPT text does not prohibit civilian nuclear assistance to a non-member *provided it is under safeguards*. Furthermore, since India cannot realistically be expected to join the NPT as a nonnuclear weapon state (NNWS), the deal ends a decades-old stalemate by separating and bringing India’s civilian complex under IAEA safeguards without granting *de jure* recognition of its weapons program or providing it any assistance.

A second criticism is that U.S. supply of reactor-grade uranium will “free up” Indian facilities to concentrate on generating weapons-grade uranium, thereby accelerating its weapons program. This is an equally flawed contention. The deal actually reduces to one-third the number of facilities available to India to generate weapons-grade fissile material. This is part of the reason the Indian Department of Atomic Energy (DAE) strenuously resisted before agreeing to place 14 of its 22 operational reactors and facilities into the civilian complex.

Absent this deal, India would have remained free to generate weapons-grade fissile material from all 22 reactors and facilities. But India is pursuing a typically leisurely path to

building a credible minimum deterrent – widely understood to be approximately 200 weapons. The emphasis is to replicate the example of Britain and France, which have small arsenals, deployed primarily on submarines and land-mobile vehicles to enhance survivability and effectiveness, consistent with a nonthreatening, second-strike posture.

A third criticism is that this deal will embolden Iran, Pakistan, and North Korea, among others, to seek a similar arrangement. This contention underscores the fallacy of focusing on the formal aspects of membership in regimes while ignoring India’s track record of controlling proliferation. Each of the above countries has pursued weapons capability for decades. The AQ Khan proliferation network from Pakistan tangibly advanced the programs of Iran, North Korea, and Libya for years before the Libyan disclosures helped bring it to a halt. By contrast, the deal with India was made possible primarily because of India’s strong record on export controls and nonproliferation. The deal is premised on the argument that actual behavior, not formal membership or hollow commitments, should determine a country’s position in the nonproliferation community. And, while India has criticized the NPT for dividing the world into nuclear haves and have-nots, and the NNWS for not doing enough to reduce their arsenals or work toward disarmament, it has nevertheless adhered to NPT’s cardinal principle of not transferring any nuclear weapons-related material or know-how beyond its borders.

Accordingly, Pakistan does not merit treatment similar to that afforded India, as President Bush rightly clarified during his trip to Islamabad. Iran must be compelled to provide full disclosure of its activities as a NNWS member of the NPT or else the IAEA is well within its mandate to report its noncompliance to the UN Security Council. And the Six-Party Talks should force the DPRK to submit to a verifiable mechanism for ascertaining and then dismantling its weapons-related programs.

Nonproliferation and wider gains from the nuclear deal

The deal brings two-thirds of India’s hitherto unsafeguarded fissile material (and facilities), which account for the majority of global unsafeguarded (non-P-5) fissile material, under IAEA safeguards. Plus, India has already made its nuclear control lists identical to that of the NSG, which reduces the prospect of India becoming a “secondary proliferator.” These represent a significant net positive for nonproliferation, especially given the growing threats of proliferators and terrorists seeking access to fissile material.

Second, India’s DAE had strongly protested placing India’s fast breeder reactors (FBRs) under safeguards because, as the DAE chief said, this U.S. demand amounted to “shifting the goalposts.” Since the firestorm of protests nearly unraveled the deal, bilateral negotiators reportedly agreed that while the

prototype FBRs should be kept in the weapons complex, India will build parallel FBRs in the civilian complex.

India's first research reactor started operating in 1956, but DAE's inefficiency has meant that after five decades, nuclear energy still produces only 3,300 megawatts of electricity. This comprises an abysmal 2.8 percent of India's energy needs, which is projected to double in the next 15 years. However, notwithstanding DAE's shortcomings in making its R&D commercially viable, during the decades of technology embargoes it mastered the MOX (mixed oxide) fuel cycle, including cutting-edge research using thorium- (and tritium-) based generation of nuclear energy. As such, the U.S. offer is to make India a full-spectrum technology partner in key global initiatives, including the GNEP (Global Nuclear Energy Partnership), ITER (International Thermo-nuclear Energy Research) and GFF (Generation Fourth Forum). But in return, and to become eligible for fuel supplies, India must pool its R&D with parallel international efforts by replicating the relevant FBR programs in its civilian complex.

In addition, the deal opens up the vast Indian energy market, estimated at about \$30 billion until 2025, for international participation, and reduces Indian energy dependence on Iran, Sudan, and other regimes whose conduct might undermine regional or global security.

Not surprisingly, the deal has been endorsed by Mohamed elBaradei, IAEA director general, and welcomed by France, Britain, Russia, and Canada, all of which can now participate in the Indian civilian complex in addition to U.S. companies. On balance, the deal tangibly advances the global nonproliferation agenda, and catalyzes a broad strategic partnership that, according to the U.S. administration, is critical to maintaining strategic stability in Asia and promoting democracy as an antidote to terrorism across the international system.

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