

The Making of the US–India Nuclear Accord

By Shalendra D. Sharma

No facet of the warming relations between Washington and New Delhi has set off as many alarm bells as the nuclear agreement between the US and India. Proponents and critics agree it is a watershed accord. Political scientist Shalendra D. Sharma unravels the arguments that have swirled around the controversial agreement between the two countries.

THE US-INDIA RAPPROCHEMENT, which began in earnest during the second term of President Bill Clinton, reached its zenith on July 18, 2005 during the US-India Summit with the landmark joint statement issued in Washington by President George W. Bush and Prime Minister Manmohan Singh. The statement noted that India was “a responsible state with advanced nuclear technology” and deserved “the same benefits and advantages as other such states.”

This was a dramatic shift in US policy because it tacitly acknowledged that India was a *de facto* nuclear state. Washington had long insisted that India must first sign the Nuclear Non-proliferation Treaty (NPT) as a precondition for civilian nuclear cooperation. In order to accommodate India, however, the Bush administration conveniently moved the goalpost by replacing the traditional distinction between NPT signatories and non-signatories with one based on “responsible” and “non-responsible” records. To India, which never engaged in the wanton proliferation of weapons of mass destruction, unlike China and Pakistan, this recognition meant a great deal, as did the

American rejection of Pakistan’s demand for similar treatment. Not surprisingly, according to the Pew Global Attitudes Survey, even at the height of global anti-Americanism in 2006, six in 10 Indians still viewed the US and Bush favorably.

The details of the agreement, which was finalized at subsequent meetings between the two sides, were made public in March 2006 during Bush’s visit to India. The fine-print illustrated the wide-ranging and ambitious nature of the accord. India agreed to “assume the same responsibilities and practices” as other recognized nuclear weapons states. Specifically, New Delhi agreed to separate its civilian and military nuclear reactors and place the former under International Atomic Energy Agency (IAEA) safeguards. This meant that 14 of India’s 22 nuclear power reactors as well as all future thermal and civilian breeder reactors would be subject to IAEA inspections. India also agreed to negotiate and sign an additional protocol to allow the agency to conduct inspections of civilian nuclear facilities without prior notice; permanently shut-down the CIRUS reactor in Trombay in 2010; establish a verifiable national export control system; refrain from transferring enrichment and reprocessing technologies to states that do not already possess them; and adhere to the missile technology control regime (MTCR) guidelines. For its part, the Bush administration agreed to amend existing US non-proliferation legislation and to modify the restrictions of the Nuclear Suppliers Group (NSG, a group of 45 countries) regarding nuclear exports to states not party to the NPT, thereby facilitating civilian nuclear transfers to India.

As the agreement formally made its way into legislation in the US Congress, a number of modifications were made to it. These included some restraints on India’s ability to conduct nuclear tests and reprocess spent fuel, as well as a requirement that the US president issue an annual certification to Congress as to whether India was abiding by the agreement. In early December 2006, a strong bipartisan majority in Congress passed the legislation modifying US non-proliferation guidelines. On December 18, 2006, President Bush signed the bill into law.

While the Bush administration has argued with some justification that the nuclear accord will impose a greater degree of transparency on India’s nuclear program than previously existed, and that the upgrading of India’s civilian nuclear power will help reduce dependence on fossil fuels, more ambitious strategic and economic considerations are behind the accord. For the United States, India represents not only an emerging power, but also a potential counterweight to China. As Nicholas Burns, the senior American negotiator for the accord, recently noted, the nuclear agreement symbolized “the emergence of India as a great power and the emergence of the strategic relationship between India and the US... [T]he rise of a democratic and increasingly powerful India represents a singularly positive opportunity to advance our global interests. There is a tremendous strategic upside to our growing engagement with India. That is why building a close US-India partnership should be one of the United States’ highest priorities for the future. It is a unique opportunity with real promise for the global balance of power.”

Former Indian diplomat and Defense Minister, Jaswant Singh, has underscored Burns’ view. In his memoir, *In Service of Emergent India* (2007), Singh notes that for decades among the highest national security objectives for India was finding a way to keep its nuclear weapons while at the same time regaining the benefits of international nuclear commerce. This goal could not be achieved as long as the US demanded strict adherence to the NPT. Therefore, when Bush offered India the possibility of having both nuclear weapons and access to the global nuclear energy market, New Delhi seized the opportunity. As Singh notes, to India’s strategic policymakers ending this “nuclear apartheid” would open up new and important avenues of economic, strategic and diplomatic cooperation. The American offer of a strategic partnership would also encourage China to improve its relations with India. Indeed, the potentially far-reaching impact of the agreement on the strategic balance of power in Asia was hardly lost on China.

China has maintained that it will study the India-specific IAEA safeguards agreement carefully before rendering its judgment. As a member



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of both the IAEA and the NSG, Beijing’s approval is essential. After receiving the okay from the IAEA, India would have to get a waiver by consensus from the NSG to allow nuclear commerce with the international community. Although Beijing’s official reaction has been measured, unofficially its disapproval of Washington’s double-standard on non-proliferation policy was duly noted — for example, US efforts to punish Iran and North Korea for their nuclear programs while facilitating a deal for a non-NPT signatory such as India.

Yet, despite strong commitment by both the US and Indian governments, the accord was still not a done deal as late as September 2008 — and many



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felt that the deal would remain “unfinished business.” This is because in India, the accord was vociferously opposed by the “Left Front coalition” of four Marxist parties, whose support in Parliament was crucial for the ruling minority coalition led by the Congress Party. Predictably, the Left Front believes the nuclear deal will make India a junior partner in an American imperial endeavor and threatened to withdraw its support if the government went ahead with the accord. Beyond this, a number of important issues still needed to be concluded before the deal could come into effect.

First, India had to sign a nuclear safeguards agreement with the IAEA. Second, the US had

to persuade the NSG to waive existing sanctions against India. And third, the US Congress again had to approve the already-negotiated agreement — after which the Indian and American governments could sign it. Regardless of the challenges, the optimists on both sides believed that the agreement would eventually pass because it is the cornerstone of India's new security strategy and important to US efforts to balance a rising China. To expedite matters and underscore its commitment, the Indian government finally worked out the text of a safeguards agreement with the IAEA — despite concerns that signing it would precipitate its ouster by the Left Front. Influential factions within the ruling Congress Party called for signing the agreement anyway — risking an ouster and having a general election on the issue. Under the Indian Constitution, an ousted government continues as caretaker until the next election. Aware of this, the Bush administration, on its part, announced that it was prepared to sign the deal with any constituted government, including a caretaker one. In other words, the nuclear deal could be completed even if the Left Front toppled the government. With such determination on both sides it seemed only a matter of time before the accord became a reality.

On July 9, the ruling coalition government's Communist allies finally carried out their threat to bring the government down unless it shelved the nuclear agreement. In reply, the prime minister called for a “confidence vote” in parliament, and more provocatively, on July 10, the Indian government signed the agreement with the IAEA by submitting a key document — the “draft nuclear safeguards accord.” On July 22, following a rancorous two-day debate, the coalition government won a parliamentary vote of confidence. While this did not ensure the survival of the agreement, the fact that the governing coalition won by an unexpectedly large margin (275 votes to 256, with ten abstentions) saved the deal from certain death in parliament.

Internationally, the agreement also faced a number of hurdles — although it passed a significant one when the IAEA's 35-member board of governors unanimously approved the agreement

without any objections on August 1. The agreement now had to secure the backing of the 45-member NSG, which had to waive its rules on nuclear trading with India. As India is not a signatory to either the NPT or the CTBT, all member countries of the NSG (including China), had to agree to exempt India from rules prohibiting nuclear sales to countries that do not accept the full-scope safeguards agreements on all nuclear facilities.

On August 21, the NSG, which controls the export and sale of nuclear technology worldwide, finally reviewed the US draft proposal on civilian nuclear cooperation with India. Their two-day meeting ended without reaching an agreement on lifting the 34-year-old embargo on nuclear trade with India. It seems that at least some members of the highly secretive NSG expressed reservations about the agreement because they opposed supplying nuclear technology to countries outside the NPT and because of India's failure to accede to the long-stalled CTBT. Some even proposed setting conditions before giving their approval. India, on the other hand, made it clear that it would not accept any new conditions to win approval from the NSG — knowing full well that the NSG must vote unanimously to lift export restrictions against India.

On September 6, 2008, the NSG lifted the ban on nuclear trade with India after three days of acrimonious talks in Vienna, overcoming opposition from countries fearful that it could set a dangerous precedent. Now all the agreement needed was final approval from the US Congress. Although, both parties recognized that this may not be possible given the fact that Congress was expected to recess in late September so members could campaign for November's elections, not to mention that the Bush administration's term was set to end in January 2009, Secretary Rice publicly assured that the administration would try to get the agreement through Congress. For their part, both US presidential candidates, Senator John McCain and Senator Barack Obama, praised the NSG for allowing its members to engage in nuclear cooperation with India and both candidates urged the US Congress to quickly pass the US-India Agreement for Civil Nuclear Cooperation.

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Clearly, this concerted effort paid off: On 2 October 2008, the India-US nuclear deal secured the approval of the US Senate which overwhelmingly voted (86 votes for and 13 against) for the accord. All three senators — Barack Obama, Joe Biden and John McCain — voted for the bill. The legislation, which had already been cleared by the House of Representatives now headed to the White House for presidential approval. On October 8, Bush signed into law the nuclear accord effectively ending a three-decade ban on US nuclear trade with New Delhi.

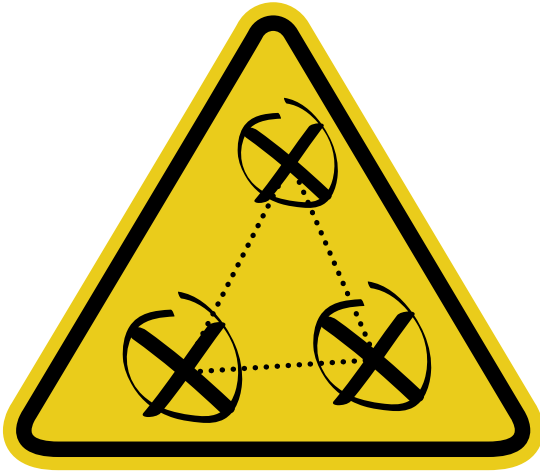
The unprecedented accord has generated heated debates. Critics claim that it weakens the global non-proliferation regime by rewarding a country that is not a signatory to the NPT, has never ac-



cepted IAEA safeguards and has an ambitious nuclear weapons program in place. Second, they say the accord sets a bad precedent because it has the potential to encourage other states to demand similar deals. The fact that Pakistan's demand for equal treatment was rejected by the Bush administration because of the proliferation activities of Pakistani scientist A.Q. Khan, is hardly a reason to celebrate; Pakistan could seek a similar agreement with China. Third, allowing India to access more fissionable materials will enable it to produce more nuclear weapons. This, in turn, could further intensify the nuclear arms race in the subcontinent between India and Pakistan and India and China. More broadly, opponents worry that the weakening of the NPT would give a green light to

some supplier countries to provide nuclear technologies and materials to any country with the requisite technical capabilities to develop nuclear weapons, including potential proliferators. Most troubling, they argue, countries like North Korea and Iran would become even more emboldened in challenging the NPT regime — with serious implications for global stability.

On the other hand, proponents argue that the accord strengthens nuclear non-proliferation goals as it brings India into the non-proliferation regime. They point out that India's willingness to subject its civilian nuclear facilities (which represent about 65 percent of its nuclear power capacity) to the full-scope of IAEA inspections, despite India's status as a non-NPT signatory, is a signifi-



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cant step towards meeting non-proliferation objectives. Second, they reject the claim that the accord weakens the NPT by arguing that North Korea's or Iran's nuclear weapons programs have nothing to do with the accord as both were already developing their programs long before the US-India accord was even under discussion. Rather, North Korea and Iran illustrate that the reasons for pursuing nuclear programs are based fundamentally on each country's strategic considerations. Third, in regards to the potential expansion of India's nuclear arsenal, the accord's backers argue that the global fissile material treaty would keep close tabs on India's weapons program and prevent any potential expansion or proliferation. This is because the fissile material cut-off in the treaty would halt India's accumulation of plutonium for military purposes by preventing the use of both weapons-grade and reactor-grade plutonium for nuclear weapons. Fourth, since the accord requires India to place a moratorium on nuclear testing, New Delhi cannot engage in any further testing of thermonuclear devices. Fifth, India has been a reluctant nuclear power, forced to develop nuclear weapons because of its legitimate security needs. Sixth, unlike active proliferators such as Pakistan (and NPT signatories like North Korea and Iran), India's record has been exemplary when it comes to non-proliferation. Seventh, India is a "responsible" global actor with a no-first-use nuclear doc-

trine and a deterrent weapons program that does not pose a threat to other countries.

Finally, the expansion and modernization of India's aging civilian nuclear power reactors would help the country meet its burgeoning energy needs, besides reducing its growing dependence on polluting hydrocarbons. Supporters of the accord point out that nuclear power remains underutilized, as it provides only about 3 percent of India's electrical power. On the other hand, the fossil-fuel that generates the bulk of the country's energy emits large amounts of greenhouse gases. Since nuclear power emits almost no greenhouse gases, expanding India's civilian nuclear program will have a positive environmental impact.

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