



Experts in Support of the U.S.-India Civilian Nuclear Initiative

OPEN LETTER TO CONGRESS

Congress Should Enact Enabling Legislation Authorizing the Sharing of Civilian Nuclear Technology with India

Executive Summary

- Congress should enact enabling legislation authorizing the sharing of civilian nuclear technology with India to implement the agreement reached between President George W. Bush and Manmohan Singh.
- The enabling legislation is key to consummating a strategic partnership with India that would solidify military cooperation, a stable balance of power in Asia, mutually beneficial trade, investment and technological collaboration, the energy security of both countries and environmental protection.
- Failure to enact the legislation would be a body blow to the improvement now taking place in relations with India.
- The Nuclear Non-Proliferation Treaty (NPT) does not bar U.S. civilian nuclear cooperation with India. Existing United States law, however, goes beyond the NPT.
- The nuclear sharing initiative would make the world safer by bringing India within the international non-proliferation framework. India would place all its civilian nuclear reactors under International Atomic Energy Agency safeguards in perpetuity, thus barring the diversion of any nuclear materials for military use; continue its moratorium on nuclear testing; upgrade export controls on nuclear sensitive items; and, participate in the negotiation of a Fissile Material Cutoff Treaty.
- NPT signatories will not withdraw from the treaty and build nuclear arsenals because the United States helps India to meet its electricity needs through civilian nuclear power. Whether a country develops nuclear weapons depends on how it perceives its national security interests. India has pointed to nuclear-armed China and Pakistan in seeking to justify nuclear weapons. By contrast, Brazil and Argentina are not likely to make nuclear weapons because they do not perceive them to be necessary. South Korea and Japan are protected by a U.S. nuclear deterrent, and if they were to develop nuclear weapons, it would be in response to the threat posed by a nuclear-armed North Korea. Civilian nuclear cooperation with India would not set a precedent applicable to Iran, North Korea or Pakistan because they have either violated the NPT or proliferated to other nations.
- India's surging energy needs will lead it to construct more civilian nuclear facilities irrespective of the cooperation of the United States.
- Civilian nuclear energy is a major tool in combating global warming.
- No agreement is without risk. But the advantages of civilian nuclear sharing with India outweigh any plausible negative ramifications. The good should not be sacrificed on the altar of the perfect.

Replies and questions may be addressed to:

Center for International Policy, 1717 Massachusetts Ave., NW, Washington DC 20036

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The Administration will soon present to the Congress a request for action to implement the agreement between President Bush and Prime Minister Manmohan Singh providing for civilian nuclear cooperation with India. The signatories to this letter urge your support for the necessary legislation. This recommendation is based on our extensive experience and expertise relating to non-proliferation policy, security issues in Asia, the domestic economic and political environment in India and India-U.S. relations.

Congress should support the agreement to promote U.S. strategic interests, U.S. non-proliferation goals, U.S. energy security and global efforts to reduce greenhouse gas emissions leading to global warming. Failure to implement it would be a body blow to the development of the strong relationship with India so important to achieving U.S. goals in Asia and beyond. We present herewith the case for the agreement and our response to the arguments put forward in Congressional testimony by critics of the accord.

As Mohammed El Baradei, Director General of the International Atomic Energy Agency, said following the President's visit to New Delhi, "this agreement is an important step towards satisfying India's growing need for energy. It would also bring India closer as an important partner in the non-proliferation regime... It would be a step forward toward universalization of the international safeguards regime."

The Strategic Case

The implementation of this agreement is necessary to promote a strategic partnership with a dynamic, self-reliant India that is playing an increasingly significant regional and global security role. Such a partnership has already begun to develop as a natural consequence of shared democratic values, compatible market economies, growing technological interdependence and a

congruence of geopolitical interests. Extending this partnership to cooperation in civilian nuclear technology has now become urgent. With its population now past one billion, India needs a massive expansion of its civilian nuclear program in order to cope with an escalating energy shortage that could in time threaten its economic and political stability.

Against the background of China's rise, including the projected expansion of its naval reach in the South China Sea and the Indian Ocean, a strong, stable India will advance the traditional U.S. objective of an Asian balance of power in which no one nation is able to exercise overwhelming dominance. Since both the United States and India are seeking constructive relations with China, neither Washington nor New Delhi wants their new partnership to become an anti-Beijing security alliance. At the same time, as a series of joint naval exercises have shown, the U.S. and Indian navies are positioned for growing cooperation from the Persian Gulf to the Straits of Malacca. In the event of disruptions in the movement of critical energy supplies through Asian sealanes resulting from wars or piracy, this cooperation will enhance the ability of the United States to respond effectively. Apart from such direct military cooperation, the United States and India have a common strategic stake in combating Islamic extremism in Afghanistan, the Persian Gulf, the Middle East and Central Asia.

Two previous administrations have attempted to move toward a strategic partnership with India while keeping in quarantine any dealings related to civilian nuclear technology or dual-use technology with possible applications to Indian nuclear or missile programs. This approach has failed because India, a subcontinental giant with a middle class larger than the combined population of France, Germany and Britain, is endowed with a wealth of indigenous talent in science and technology and feels confident that it will achieve major power status with or without external help.

The Non-Proliferation Case

Implementation of the US-India civil nuclear agreement will advance the objectives of the Nuclear Nonproliferation Treaty (NPT) by opening the door to India's participation in the global non-proliferation regime. Contrary to the Congressional testimony of some specialists:

- The NPT does not bar the United States and other signatory nations from providing civilian nuclear technology under safeguards to non-signatories such as India. It is for this reason that the United Kingdom, France and Russia have endorsed the agreement. Congress went beyond the NPT by requiring safeguards on all of a country's nuclear installations as a condition for U.S. civilian nuclear cooperation. This has had consequences that conflict directly with U.S. nonproliferation goals. The United States can sell civilian nuclear reactors to China, which signed the NPT but has supplied nuclear weapons technology to Pakistan. At the same time, the United States has barred such sales to India, which did not sign the NPT but has never transferred nuclear technology to others. The justification put forward for this paradoxical result is based on a legal technicality: that China's 1964 test took place before the cutoff date for classification as a "nuclear weapons state" specified in the NPT, while India's 1974 and 1998 tests did not.

We recognize that critics of the agreement have legitimate concerns about possible unintended consequences that cannot be foreseen. On balance, however, we believe that such concerns are less compelling than the clear, tangible, immediate benefits to the non-proliferation regime that will result from the agreement.

- The agreement will expand safeguards coverage of the Indian nuclear program by requiring India to place all existing and projected reactors designated by India as civilian under international safeguards in perpetuity. Initially, India insisted that reactors built without foreign involvement be exempt from safeguards, but withdrew this proviso

during the negotiations with President Bush. These safeguards will remain in force in perpetuity. With or without U.S. help, India will be forced by burgeoning population growth to expand civilian nuclear power exponentially for electricity generation, and it is important to bring this expanded capacity under international inspection.

- Prime Minister Singh has fulfilled his commitment in the accord that India would “identify and separate civilian and nuclear facilities in a phased manner.” After bitter internal battles with nuclear nationalists in India, the Prime Minister has presented a credible eight-year timetable designating which of India’s existing nuclear facilities are now restricted to nuclear power generation, which ones will be shifted over to civilian purposes at specified stages, and which ones will be left for military use. India’s nuclear hawks wanted a much shorter civilian list. By 2014, 65 percent of India’s existing installed thermal nuclear capacity, 14 of 22 reactors, will be restricted to civilian purposes. As Undersecretary of State Nicholas Burns stated on March 2, safeguards will apply to all future civilian power reactors and “breeder reactors that are classified as civilian” by India. The reactors to be placed under safeguards include several that India built with its own know-how and resources. In the past it has refused to place them under safeguards, but will do so now in order to be able to get foreign fuel and components.

Critics object to the fact that the agreement gives India the freedom to build new military reactors and exempts key research and development facilities with a military potential from safeguards, such as any breeder reactors not classified as civilian. Given the magnitude and projected growth of its energy needs, however, India appears likely in its own self-interest to use fast-breeder reactors it may subsequently build for civilian purposes, as its current plans envisage.

Another often-expressed objection is that the agreement will enable India to use its indigenous uranium for military reactors, since civilian reactors will be able to rely increasingly on imported uranium fuel. But as *The Washington Post* has pointed out, “leaving a potentially large plutonium-making program outside the scope of multilateral inspections is not a setback relative to the status quo,” since India would have been free to continue making as many nuclear weapons as it deemed necessary regardless of the July accord, using breeder reactors as well as uranium-fueled reactors.

The critics object to the very concept of a civilian-military separation plan that implicitly acknowledges the military component of the Indian nuclear program. But this acknowledgement was long-overdue. India has been a de facto nuclear weapons state since 1974, and U.S. policy under two administrations has already given de facto recognition to this reality.

- Critics also argue that the accord will lead countries that accepted the NPT and gave up their own nuclear aspirations to consider reactivating their weapons programs. In our view, what could put pressure on these countries is not the deal with India but the geopolitical situation in their own regions. Thus, Brazil and Argentina would appear unlikely to reopen their NPT adherence, and should, in any case, have access to nuclear technology, given their compliance to date with Article One.

By contrast, North Korea, an NPT signatory, says it has developed nuclear weapons, pointing to perceived security threats that have nothing to do with the U.S.-India agreement. Similarly, if South Korea, Taiwan or Japan were to convert their U.S.-aided civilian nuclear programs to weapons development, it would be in response not to the agreement but to changing geopolitical factors.

Finally, critics believe that the bargain with India may invite countries that already have nuclear weapons, like North Korea and Pakistan, or are seeking to develop a nuclear weapons option, like Iran, to demand equal treatment. But India's record of observing Article One stands in sharp contrast to Pakistan's role as a wholesale proliferator and to the failure of Iran and North Korea to abide by their NPT commitments.

- The agreement will strengthen India's commitment to participating in international efforts to prevent proliferation. India has not exported nuclear material or technology, but because it has been treated as an object of suspicion by the Nuclear Suppliers Group and other nonproliferation institutions, it has not directly participated in their work. The agreement not only commits India formally to align its export rules and practices with those of the Nuclear Suppliers Group: it also opens the way for Indian participation in the Proliferation Security Initiative, and in efforts to guard against nuclear leakage. India's decision to support the majority in the International Atomic Energy Agency's recent vote to report Iran to the U.N. Security Council shows how important this enhanced nonproliferation posture can be.

The Energy Security Case

The agreement opens the way for India to meet its energy needs in ways that will advance long-term U.S. energy security goals. At present India gets only 2.6 percent of its electricity from nuclear power, but it is likely to increase this percentage at least ten fold in the next two decades. Even if it only gets part way toward this goal, this would be a significant reduction in its potential need for oil and gas, most of it now obtained from the Persian Gulf.

As more and more Indians drive automobiles, its demand for oil is rapidly growing. India will increasingly be competing with the United States and other consumers for petroleum from

the Gulf and other sources. President Bush emphasized energy security in his press conference with Prime Minister Singh at the conclusion of his recent visit to India. “Congress has got to understand,” he said, “that it is in our economic interest that India have a civilian nuclear power industry to help take the pressure off the global demand for energy. Increasing demand for oil from America, from India and China, related to a supply that is not keeping up with the demand, causes our fuel prices to go up and so to the extent that we can reduce the demand for fossil fuels, it will help the American consumer. This is what I’ll be telling our Congress.”

The Global Warming Case

As India industrializes, its greenhouse gas emissions are steadily increasing, making it one of the world’s major polluters, albeit far behind the United States. India, like China, argues that it is in a developmental stage, seeking to catch up with more advanced industrial powers, and cannot be held to the same standard as the developed countries in any global warming agreement. To the extent that India shifts away from fossil fuels, its negative impact on global warming will be reduced, and the prospects for international limitations on greenhouse gas emissions will improve.

To sum up, the arguments made against the agreement are outweighed by the arguments in its favor. Civilian nuclear cooperation with India will strengthen its political and economic stability; further U.S. strategic interests, U.S. non-proliferation goals and U.S. energy security, and help to combat the growing danger posed to mankind by global warming.

This letter reflects the personal views of the undersigned and does not represent the views of the institutions with which they are affiliated.

SELIG S. HARRISON*Convenor*

Director
Asia Program
Center for International Policy

Senior Scholar
Woodrow Wilson International Center for
Scholars

WALTER ANDERSEN

Associate Director, South Asia Studies
School of Advanced International Studies
Johns Hopkins University

Former Director for South Asia, Bureau of
Intelligence and Research, Department of State,
and former Special Assistant to U.S.
Ambassador to India William Clark

GARY K. BERTSCH

Director
Center for International Trade and Security
University of Georgia

University Professor of Public and International
Affairs
University of Georgia

DANIEL BLUMENTHAL

Resident Fellow in Asian Studies
American Enterprise Institute

Former Senior Director, China, Taiwan,
Mongolia, and Hong Kong, Office of the
Secretary of Defense

MARSHALL BOUTON

President
Chicago Council on Foreign Relations

Former Director for Policy Analysis, Near East
and South Asia
Department of Defense

HONORABLE RICHARD CELESTE

Former U.S. Ambassador to India

Former Governor of Ohio

HONORABLE WILLIAM CLARK

Former U.S. Ambassador to India

Former Assistant Secretary of State for East
Asian and Pacific Affairs

STEPHEN P. COHEN

Senior Fellow
The Brookings Institution

Former Member, Policy Planning Council
Department of State

THOMAS DONNELLY

Resident Fellow in Defense and National
Security
American Enterprise Institute

Member, U.S.-China Economic and Security
Review Commission

AINSLIE EMBREE

Professor Emeritus of History and former
Director of the Southern Asian Institute
Columbia University

Former Special Consultant to U.S. Ambassador
to India Frank Wisner

HAROLD GOULD

Visiting Scholar
Center for South Asian Studies, University of
Virginia

LEONARD G. GORDON

Senior Research Associate
Southern Asian Institute
Columbia University

FREDERIC GRARE

Visiting Scholar
Carnegie Endowment for International Peace

Former Counselor for Cooperation and Culture
Embassy of France, Islamabad, Pakistan

ROBERT M. HATHAWAY

Director, Asia Program
Woodrow Wilson International Center for
Scholars

Former South Asia specialist, Foreign Affairs
Committee,
U.S. House of Representatives

WALTER HAUSER

Professor Emeritus of South Asian History
University of Virginia

HONORABLE KARL F. INDERFURTH

Director, International Affairs Program
Elliott School of International Affairs
George Washington University

Former Assistant Secretary of State for South
Asian Affairs

ROBERT KAGAN

Senior Associate
Carnegie Endowment for International Peace

Former Member of the Policy Planning Staff,
Department of State and principal speech writer
to Secretary of State George P. Shultz

HONORABLE DENNIS KUX

Senior Scholar
Woodrow Wilson International Center for
Scholars

Former U.S. Ambassador to the Ivory Coast

EDWARD LUTTWAK

Senior Advisor
Center for Strategic and International Studies

Former consultant to the office of the Secretary
of Defense, the National Security Council, the
State Department and the U.S. Army, Navy and
Air Force.

MCKIM MARRIOTT

Professor Emeritus of Anthropology
University of Chicago

Former Consultant to the Ford Foundation and
the U.S. Embassy, New Delhi

THOMAS R. PICKERING

Senior Vice President for International Relations
The Boeing Company

Former Under Secretary of State for Political
Affairs

HONORABLE JOHN B. RITCH

Director General
World Nuclear Association

Former U.S. Ambassador to the International Atomic Energy Agency and former Staff Adviser on Nuclear Non-Proliferation and Arms Control, Senate Foreign Relations Committee

LLOYD RUDOLPH

Professor Emeritus of Political Science
University of Chicago

Former Chair, South Asian Studies and Chair, Committee on International Relations
University of Chicago

SUSANNE RUDOLPH

William Benton Distinguished Service Professor of Political Science Emerita
University of Chicago

Former Director of the Center for International Studies and Chair of the South Asia Center
University of Chicago

HONORABLE HOWARD SCHAFFER

Deputy Director
Institute for the Study of Diplomacy
Georgetown University

Former U.S. Ambassador to Bangladesh

HONORABLE TERESITA C. SCHAFFER

Director, South Asia Program
Center for Strategic and International Studies

Former Deputy Assistant Secretary of State for Near East and South Asian Affairs, and former U.S. Ambassador to Sri Lanka

HONORABLE FRANK WISNER

Vice-President, American International Group

Former U.S. Ambassador to India