Experts Make Case for Modification of U.S.-Indian Nuclear Deal

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(Washington, D.C.): Three leading nonproliferation experts write in an Arms Control Today article this month that if the United States implements a presidential proposal for wider U.S.-Indian civilian nuclear cooperation "without significant modification, it will have given the Indians a great deal--acknowledgment as a de facto nuclear-weapon state and access to the international nuclear energy market--in return for largely symbolic concessions in the nonproliferation area."

On July 18, President George W. Bush pledged to seek changes in U.S. and multinational policies that would allow the United States to revive more robust civil nuclear cooperation with India for the first time since its 1974 detonation of a nuclear device using technology acquired for "peaceful" purposes. Spurred by that test explosion, the authors note, the United States enacted the 1978 Nonproliferation Act which "required that, in order to receive future nuclear exports from the United States, non-nuclear-weapon states such as India needed to place all of their peaceful nuclear activities under...full-scope safeguards."

In return for Bush's pledge, India declared support for some modest nuclear restraint commitments and said it would declare certain nuclear facilities as civilian and others as military and place civilian projects under IAEA safeguards, which are mechanisms designed to deter and detect the diversion of any civil nuclear technologies for illicit weapons purposes.

The Bush administration has said it will seek congressional approval for changes to U.S. nonproliferation laws and the consent of allies and friends to exempt India from the export rule of the 45-nation Nuclear Suppliers Group (NSG) that requires a potential nuclear trade recipient to have full-scope safeguards, meaning that the importer's entire nuclear apparatus is subject to international oversight. India is not a member of the nuclear Nonproliferation Treaty (NPT) and does not allow for full-scope nuclear safeguards.

Fred McGoldrick, Harold Bengelsdorf, and Dr. Lawrence Scheinman write in the October issue of Arms Control Today that "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." They add, "It is open to serious doubt whether the proposed Indian concessions were significant enough to justify the accommodations promised by the United States and whether the steps the United States and India agreed to take in the civil nuclear area will, on balance, be supportive of global nonproliferation efforts."

McGoldrick and Bengelsdorf are partners in a Washington-based consulting firm and Scheinman is a professor at the Center for Nonproliferation Studies. All three authors have decades of experience working on nonproliferation matters for the U.S. government and the IAEA.

The authors note that India could ask the IAEA to apply facility-specific safeguards to declared civilian facilities that would last in perpetuity and preclude their use for the production of fissile material--plutonium or highly enriched uranium--for bombs. Alternatively, India could enter into
"largely symbolic" voluntary safeguards agreement similar to those of the original nuclear-weapon states, which would allow it to withdraw safeguarded nuclear facilities or material for military purposes at any time. Most of India's current nuclear facilities are unsafeguarded.

"India pledged to work with the United States for the conclusion of a multilateral fissile material cutoff treaty (FMCT). Yet India has been supporting the negotiation of such a treaty for some time, so this is not a new concession," the experts note. "Moreover, it is not clear how meaningful this action will really be because the United States itself has thrown the prospects for concluding this treaty into some confusion by asserting that an FMCT cannot be adequately verified. In the meantime, India will remain free to produce fissile materials for its nuclear weapons program," they write.

The trio further argues that peaceful nuclear cooperation with India must occur only under certain basic conditions. "India needs to bring an early halt to the production of nuclear materials for nuclear weapons or nuclear explosives...[and] New Delhi must accept safeguards in perpetuity on its civil nuclear facilities," they recommend.

The authors also express concern about the impact of the proposed deal on NSG efforts to curb the spread of sensitive nuclear weapons-related technologies to other states. "If some suppliers try to exploit the U.S. initiative for commercial purposes to pursue previously off-limit markets, it could wreak serious damage to the nonproliferation regime," they warn.

The United States is pressing fellow group members to hold an extraordinary plenary session to discuss nuclear trade with India on the margins of an Oct. 17 NSG meeting. The administration has told Congress that it is still considering what combination of legislative changes and/or waivers to existing U.S. nonproliferation law it will seek.

At a Sept. 16 Arms Control Association briefing, Scheinman said, "Congress has an opportunity to shape the future, to shape development in ways that can help to push outcomes...reinforcing nonproliferation principles and set a sufficiently high bar for exceptions of this kind to mitigate--not prevent but mitigate--the damage that will be done to the [nuclear nonproliferation] regime."


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