

## **The US-India Nuclear Deal: A Strategy for Moving Forward**

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### **Abstract**

Washington is correct to pursue a strategic partnership with India to combat terrorism, spread democracy, and promote the free market. However, the US-India nuclear deal introduces significant nonproliferation concerns. In moving forward, the Obama administration must focus on the larger foreign policy objective in India of political, economic, and social development through a bilateral free trade agreement. Congress must act quickly and firmly to ensure the termination of Indian nuclear weapons testing, protect sensitive nuclear exports, create strong incentives for India to remain open to regular IAEA inspections, and target nuclear programs for strictly civilian purposes without military crossover.

### **I. Introduction**

The United States is balancing two foreign policy objectives in India. First, Washington seeks to develop a strategic partnership with a large democratic counterweight to growing Chinese power and a strong ally in counterterrorism. Second, America aims to strengthen the global nuclear nonproliferation regime. The Bush administration finalized a bilateral agreement with India on civilian nuclear cooperation in October 2008 to achieve both maxims. I concur that there is a strong case for cooperation with India, which represents a stable power in a geopolitical region that harbors several threats to American national security. However, the US-India nuclear deal highlights America's disregard for the rule-based Nuclear Non-Proliferation Treaty (NPT). In moving forward, the Obama administration must focus on Indian nuclear power only as a means of economic development. Congress must ensure the termination of Indian nuclear weapons testing, protect sensitive nuclear exports, create strong incentives for

India to remain open to regular IAEA inspections, and target nuclear programs for strictly civilian purposes with no military crossover.

This policy brief is divided into five sections, including the introduction. In Part II, I will provide a brief history of US-Indian nuclear dialogue since the 1970s and outline the basic requirements established in the US-India nuclear deal of 2007. In Part III, I will present the case for United States cooperation with India and its nuclear program, and describe the challenges of the recent bilateral agreement to the global nonproliferation regime along with other structural limitations of the deal. Part IV lays out a strategy for the United States to move forward, including a series of Congressional duties to improve the nuclear agreement and reconcile nonproliferation concerns. Finally, I conclude my argument in Part V by reiterating that the United States must focus on harnessing Indian power through broader economic development from a bilateral free trade agreement, and that Congress must enforce the regular inspection of new Indian reactors to ensure that they serve only civilian purposes.

### **II. History and background**

#### *Relevant history of US-India bilateral nuclear negotiations*

US-India nuclear relations over the past three decades have been contentious and should be characterized until recently by distrust and restraint. India refused to sign the NPT in 1968 and opposed the Comprehensive Test Ban Treaty (CTBT) in the 1970s on ideological grounds. New Delhi felt that the agreements were discriminatory against "have-nots" by allowing existing nuclear weapons states to retain their nuclear arsenals and continue some testing (Foran, 1999, p. 40). India tested its first nuclear bomb in 1974 and the United States distanced itself for the next twenty-five years while discouraging other nations from nuclear cooperation with the emerging superpower (Pan, 2008).

The United States began to reexamine its nuclear policy after India conducted another series of tests in 1998. The Clinton administration realized that com-

plete denuclearization was an unreasonable objective and aimed for Indian accession to the CTBT and the termination of fissile material production for nuclear arms in exchange for civilian nuclear the strategic aspirations in South Asia, was unable to convince India to unilaterally cap its nuclear arsenal but improved US-India relations overall by renewing interest in negotiation. The Bush administration resumed talks with India in 2001 and prioritized a strategic relationship with a rising global power over denuclearization and nonproliferation concerns. In 2004, Washington and New Delhi committed to the “Next Steps in Strategic Partnership” (NSSP) that eased restrictions on India’s access to four main types of US nuclear technology: dual-use items, civilian nuclear technology, civilian space cooperation, and ballistic missile defense (Hagerty, 2004, p. 21). The NSSP significantly improved the previously stale relationship between the United States and India, and set the stage for future civilian nuclear cooperation.

#### *The US-India Nuclear Deal*

The bilateral agreement between the United States and India on civilian nuclear cooperation in 2007 established the following five terms: (Pan, 2008)

- India must allow IAEA inspectors to access its civilian nuclear reactors. However, India can classify which reactors classify as civilian. India promised to place 14 of its 22 power reactors under IAEA safeguards; within 20 years, 90 percent of India’s reactors should be included under these safeguards (Burns, 2008, p. 136)
- India must agree to terminate all nuclear weapons testing. If India does conduct weapons tests, than American companies have the right under US law to collect all nuclear fuel and technology that was shipped to Indian reactors (Burns, 2008, p. 137)
- India must commit to strengthening the security of its nuclear arsenals
- India must commit to negotiating a Fissile Material Cutoff Treaty (FMCT) with the US that bans fissile material from being produced for

weapons purposes. In addition, India must prevent the spread of enrichment and reprocessing technologies to states that do not already possess them, control sensitive nuclear exports, and support the international nuclear nonproliferation regime

- US companies must be allowed to build nuclear reactors in India and contribute nuclear fuel for India’s civilian energy program initiatives

The United States essentially traded nuclear recognition and credibility to India for a strategic partnership. The deal requires that the United States treat India as if it were a nuclear weapons state under the NPT (Carter, 2006, p. 36). However, since India did not ratify the NPT, America’s two foreign policy objectives of partnership and nonproliferation will clash in the coming years. In this next section, I will dissect the US-India nuclear deal by presenting the basic case for cooperation and specific challenges to the global nonproliferation regime.

### **III. Assessing the US-India nuclear deal: successes and failures**

#### *The case for United States strategic cooperation with India*

A strategic partnership with India represents a positive opportunity for the United States to advance its foreign policy goals. The United States and India share fundamental political, economic, and military interests. Both nations are open democratic societies, face similar threats from global terrorism, and embrace free trade and market-based economic systems (Burns 2008: 136). Improving the US-India diplomatic relationship will significantly increase the United States’ ability to effectively combat terrorism. Since India also has the second largest Muslim population in the world, a strong US-India partnership will allow the United States to improve relations with the Islamic world (Levi & Ferguson, 2006, p. 8). Furthermore, India represents a strong potential United States ally in a geopolitical region that harbors several threats to American national security: a dangerous surge in Chinese economic power, nuclear

threats from Iran, and political instability in Pakistan.

The US-India nuclear deal recognizes India as a peaceful nuclear weapons state. The United States has rewarded India for being a responsible nuclear power and playing by NPT rules, and has the opportunity to modernize and strengthen the Indian nuclear program in the nonproliferation regime (Burns, 2007, p. 136). India's citizens view the US-India nuclear partnership as renewed American respect for India, which positively affects the United States image abroad. In addition, US-India cooperation sends an indirect yet powerful message to threatening nations such as Iran that responsible nuclear behavior will be rewarded, while reckless proliferation will result in sanctions and isolation.

The Bush administration structured the US-India nuclear deal around six main premises that highlight the benefits of strategic cooperation. First, the United States was looking to balance potentially harmful Chinese power by mobilizing peripheral states. Second, a United States partnership with India based on democratic and free-market values will be the most effective tool in balancing Chinese power. Third, India will have to increase its nuclear energy program to fuel its rapid economic growth. Fourth, achieving a nuclear partnership with India will require bending international law to facilitate technology cooperation. Fifth, peaceful nuclear cooperation with non-nuclear weapons states under safeguards does not violate Article 1 of the NPT (Tellis, 2006, p. 9), and India will fulfill the responsibilities of a nuclear power by using this technology responsibly to target terrorism. Sixth, the current nonproliferation regime does not distinguish between responsible nuclear powers and actors who are opportunistic and will cheat the system, such as Iran and North Korea. Thus, the United States should reward India for remaining a peaceful nuclear power (Perkovich, 2005, p. 2). These strong positive arguments shape the current debate about nuclear cooperation and correctly identify the strategic upside of a US-India nuclear partnership.

### *Nonproliferation challenges and structural limitations*

The US-India nuclear deal introduces many challenges to the nonproliferation regime and can be

critiqued for doing more harm than good in the international community, while perhaps missing the primary target of American foreign policy objectives. First, the United States is underestimating the rules-based approach of the current nonproliferation regime. While proponents argue that America gained approval from India's citizens, the United States also displayed blatant disregard for the NPT and existing international nonproliferation agreements. Furthermore, there is little empirical evidence that India's policies have switched in favor of the United States. In September 2006, Prime Minister Singh joined Fidel Castro, Hugo Chavez, and Mahmoud Ahmadinejad at an anti-American meeting of the Non-Aligned Movement, and India has not heavily opposed Iran's nuclear ambitions. In addition, New Delhi has not yet expressed gratitude for nuclear recognition, but rather a sentiment of entitlement (Carter, 2007).

Second, the US-India nuclear deal sends a provocative message to aspiring nuclear powers that might increase the risk of terrorist activity harmful to the United States. The Bush administration aimed to show Iran that responsible nuclear behavior according to international rules is rewarded. However, the United States is clearly bending the rules to support India's civilian nuclear program, and is instead communicating that breaking the rules leads to higher nuclear payoff than obedience (Burns, 2007, p. 137). The deal might tempt other nations to stray from nonproliferation in hopes of receiving similar rewards, which would set a dangerous precedent for Iran and North Korea in particular (Carter, 2006, p. 33). Furthermore, existing powers under the NPT might begin to select specific countries to which nonproliferation does not apply. On the other hand, many nations supporting the NPT might also be demoralized by the lack of consistency in the execution of the international treaty. Ultimately, the United States rewarded noncompliance, which destabilizes the political will behind the current nonproliferation regime.

Third, Washington received no firm, meaningful commitments from New Delhi. Perhaps the best critique of the US-India nuclear deal is that the only benefits for the United States are contingent on uncer-

tain future actions (Carter, 2006, p. 34). Thus, the true gains for the United States could take months, perhaps years, to materialize while India has received access to civilian nuclear technology upfront.

However, there are some strong counterarguments to the nonproliferation critiques of the US-India nuclear deal. First, nonproliferation efforts must be flexible and adaptable, and knee-jerk responses to alleged violations undermine the credibility of the current nonproliferation regime. Second, many existing nuclear powers have previously bent the rules established by the NPT, and denying the United States of this strategic opportunity with India would create a dangerous double standard. In this next section, I propose some concrete strategies for the United States to move forward and reconcile nonproliferation concerns with its foreign policy objectives.

#### **IV. Strategy for moving forward with US-India nuclear cooperation**

##### *Identify primary foreign policy objective in India*

Washington must keep a clear vision of its primary foreign policy objective in creating a strategic partnership with New Delhi. The United States is looking to establish cooperation with India to facilitate counterterrorism and promote the spread of democracy and market-based economics. The United States should base this strategic partnership on the economic, political, and social development rather than building a nuclear arsenal to balance Chinese power (Perkovich, 2005, p. 6). The benefits of US engagement extend far beyond leveraging of India as a political tool against a rising China. The development of India's civilian nuclear program is only a fraction of the tools necessary for rapid economic growth. Washington's accommodation of New Delhi's preoccupation with nuclear fuel alone will hardly sustain a long-term partnership.

Establishing a strong nuclear program should not be Washington's top strategic priority in India. More than 60 percent of the Indian population is currently employed in the agricultural sector. A more efficient strategy would promote trade policies that facilitate

rural development and stronger social infrastructure (Perkovich, 2005, p. 6). The Obama administration should follow up the recent nuclear deal by negotiating a US-India free trade agreement. Washington and New Delhi have agreed to double bilateral trade in the next three years, and this ambitious goal must remain a top priority (Riedel & Inderfurth, 2007). Washington has correctly identified India's potential and aimed to liberate India from previous nonproliferation restrictions; however, it must refocus its foreign policy objectives on human development, rather than stronger nuclear programs and the balance of Chinese power.

##### *Reforming the US-India Nuclear Deal*

Washington must also improve the structure and enforcement policies of the recent US-India nuclear deal. An abrupt shift away from nuclear cooperation would be politically unfeasible, as India would consider the United States an unreliable strategic partner. Congress must move quickly and define its own limits, recognizing that US-India nuclear policy will not influence the entire nonproliferation regime. Thus, Congress must remain flexible and enforce four policy recommendations to reconcile nonproliferation concerns.

First, the threat of nuclear weapons testing is greater than increased buildup of nuclear inventory. If India refuses to sign the CTBT, Congress must firmly prevent weapons testing which increases explosive power and political risk of retaliatory testing by unstable nuclear regimes. Nuclear cooperation must irreversibly cease if India breaks this moratorium on weapons testing, unless this testing is provoked by Chinese of Pakistan actions (Levi & Ferguson, 2006, p. 14). Second, Congress must enforce universal strict control over sensitive nuclear exports since the largest threat to American national security is terrorists gaining access to nuclear weapons. Congress should close any loopholes in the Nuclear Suppliers Group for China-Pakistan cooperation resulting from the US-India deal (Levi & Ferguson, 2006, p. 15). Third, Congress must convince India to subject reactors to regular inspections and IAEA safeguards which will not foster NPT-non-compliance since political pressures to conform to in-

ternational standards trump nuclear complexes. Fourth, Congress must strengthen the Indian commitment that nuclear energy strictly serves civilian purposes with no military crossover (Daalder & Levi, 2007).

## V. Summary

Washington is correct to pursue a strategic partnership with India to combat terrorism and promote democracy and the free market. However, the US-India nuclear deal introduces some significant nonproliferation concerns. In moving forward, the Obama administration must focus on the larger foreign policy objective in India of human development and pursue a bilateral free trade agreement. Congress must act quickly to ensure the termination of Indian nuclear weapons testing, protect sensitive nuclear exports, create strong incentives for India to remain open to regular IAEA inspections, and target nuclear programs for strictly civilian purposes with no military crossover.

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