

# Experts' Letter to the US Congress: A Response

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The Indo-US civil nuclear cooperation initiative along with promises of steady and affordable nuclear energy has ushered in excitement, dilemmas, criticism and raging controversy. Barely five months have passed since the ink dried on the civilian nuclear technology deal, but it has again raised fresh speculations. On 18 November 2005, eighteen former US government officials, in a letter addressed to the US House of Representatives, have urged it to reconsider the full implications of the proposed Indo-US nuclear cooperation. Presuming that the nuclear deal will pose threats to the non-proliferation regime they have advised the Congress to impose additional stipulations on India which might prove beneficial to the US perspective. However, these suppositions are merely hypothetical assumptions that should be refuted.

The experts have questioned "how reliable is India as a nuclear trading partner based on its past record and how might the proposed deal affect efforts to stop trade to and from states of concern." India's record as a nuclear power is exemplary. India tested its first nuclear device in May 1974 and became a full-fledged nuclear power in May 1998. During these twenty-four years, India's nuclear track record remains impeccable. It has refrained from any kind of illicit trading or smuggling of nuclear materials, technology or blue-prints. In 1978, despite facing foreign debt of \$15 billion, India spurned Libya's offer to pay off the same in exchange for its nuclear weapons capability. Immediately, after the Pokhran II blasts, crippling sanctions were imposed upon India (a fact that was anticipated in advance). But the political leadership steered the nation out of an economic apocalypse without involving any WMD-related illicit

transactions and vilifying the non-proliferation regime. Today, India continues to demonstrate responsible behavior on all nuclear weapons-related issues. India has declared a self-moratorium on any further nuclear weapons testing. India's nuclear doctrine is premised on the cardinal principles of minimum nuclear deterrent and NFU. India has expressed cooperation on the implementation of the FMCT and passed the WMD Bill in May 2005 prohibiting unlawful trafficking of nuclear weapons and technology. Despite not being a member of the NPT, India has reiterated its pledge to the non-proliferation regime and demonstrated strong commitment to the obligations of the NPT. Hence, India is not only being a reliable partner but also a responsible nuclear weapon state.

The civil nuclear energy partnership will provide an excellent example to motivate states of immediate concern to exercise nuclear restraint on their nuclear weapons programme. Iran and North Korea who have of late inflicted damaging blows on the non-proliferation regime, can be encouraged to aspire for a similar deal with the US to meet the needs of their countries. Likewise, the deal will also encourage Pakistan to contribute meaningfully to global non-proliferation. Pakistan has recently notified the control lists of goods, technologies, materials and equipment related to nuclear and biological weapons and their delivery systems, which will be subject to strict export controls. It is not presumptuous to believe that influenced by India, Pakistan is formulating a similar cooperation initiative.

The US experts have cast doubts over India's nuclear and missile exports laws and enforcement capabilities. In May 2005, India passed the WMD

Act to criminalize any export, transfer, transit, transshipment and brokering of WMD related materials by non-state actors. Further, in July 2005, India voluntarily harmonized its control list of sensitive technologies with those of the NSG and MTCR. India's export controls are at par with global standards and its policy of non-proliferation of reprocessing and enrichment technologies places it in an "NPT plus" category. Hence, the doubts expressed by the non-proliferation advocates over India's export laws and control is unfounded.

The bipartisan group has raised fears that "the delivery of US technology or nuclear fuel for the reactors in India would free-up indigenous India nuclear fuel for its weapons programme." This is an exaggerated assumption. It is important to understand the basic fact that the Indo-US nuclear energy deal is not about India's nuclear weapons programme. India is a rapidly expanding economy with a target of 10 percent rate of growth of economy. The strategic cooperation is meant to revolutionize India's civil nuclear energy resources to meet its growing demands. However, the experts have straight-jacketed the civil nuclear energy deal into the non-proliferation

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argument without appreciating its basic parameters. India's nuclear doctrine advocates a minimum nuclear deterrent and NFU. There appears no reason for India to stockpile highly enriched uranium (HEU) and Plutonium (Pu) for nuclear weapons amassing, which will tantamount to negating India's nuclear doctrine and tarnishing its record as responsible nuclear weapon power. Any pre-supposition that the Indo-US strategic partnership is meant to stockpile HEU and Pu for arsenal building lacks credibility.

The letter addressed to the Upper House raises the question "what kind of IAEA safeguards will be applied to Indian civilian nuclear facilities?" The

more germane question is whether safeguards imposed shall be in perpetuity and whether the IAEA will have the "right of pursuit", meaning nuclear material produced in facility X will be pursued into facility Y if it is transferred there. A nice point arises here. Will facility Y then come under temporary safeguards for the duration when safeguarded material is transferred and processed here, or come under perpetual safeguards. This is a tricky issue. India stands for a minimum nuclear deterrence, which is a dynamic concept. The concept of "minimum" implies India's nuclear weapons capabilities will evolve vis a vis existing threats. It will need a robust counter-strike potential capable of inflicting unacceptable damage the adversary. According to the joint statement of 18 July 2005, Prime Minister Manmohan Singh has accepted all responsibilities and duties with regard to civilian nuclear facilities which are applicable to other NWS like the US. The experts should have faith in India's credibility and put their fears to rest.

The experts are hesitant over how the US will verify India's non-proliferation commitments. They are unsure how the US will determine which facilities are civilian and which are military. India is a sovereign nation with a distinguished R&D record. The separation of civilian and military nuclear facilities is a complicated process which has to be conducted in a credible and transparent manner phased over a long period of time. Indian scientists are competent and will have the sole autonomy to decide which nuclear facilities shall fall within the purview of civilian sector and to designate the rest as military. The list of civilian nuclear facilities that India will place under IAEA safeguards will be long enough to satisfy the Bush administration. That is the Indian stand conceded to the US.

As a responsible nuclear power, India has no problems in placing its civilian nuclear facilities under IAEA inspection system. In 1993, Tarapur was placed under voluntary safeguards when India's treaty obligations had expired. India has also placed two of its Russian supplied reactors near Chennai and the Kota reactors under IAEA inspection system. It is important for the US experts to understand that it makes no sense for India to deliberately keep some of its civilian facilities out of safeguards as it is interested in obtaining

international cooperation.

The bipartisan group speculates whether US considers India's 1974 explosion, in which US heavy water was used in the production of the bomb's plutonium to be a violation of the sale agreement between India and the US. Although this remains a prickly issue in Indo-US relations, the Bush administration have put it aside and looks forward to an effective strategic partnership with India.

The letter further debates whether the Bush administration has any evidence of Pakistani, Israeli or North Korean interest in civil nuclear energy? The Indo-US nuclear deal has the potential to motivate states of immediate concern to abandon any reckless ambition to amass nuclear warheads. Once the deal is implemented in letter and spirit, it is expected to have a positive impact on other nations to refrain from stockpiling nuclear weapons. Pakistan has already expressed its desire to enter into a similar civilian nuclear energy partnership with Washington.

The letter assumes that the nuclear deal can be used by Russia or China to sell nuclear technology to their preferred political or commercial partners like Israel or Pakistan. Should any such deal take place, the recipient nation will have to agree to separate its nuclear weapons programme from its civilian energy programme and place the latter under full-scope safeguards just as India will have done.

The letter states "civilian nuclear assistance should not be extended to India until it implements a cessation of production of fissile material for weapons, which has been adopted by the five original NWS." This statement can be refuted on two grounds. First, this assumption is factually incorrect. Not all the original NWS have adopted a cessation of fissile material production. China, for example has not declared any moratorium in this regard. Second, this condition is in complete variance with the understanding reached between the two countries in July 2005. To make the nuclear deal contingent upon the termination of India's fissile material production is unjustified. In December 1993, India along with the US, co-sponsored the resolution in the UN General Assembly to negotiate the FMCT. Contrary to the NWS, who accepted voluntary moratorium on fissile material production only after accumulating

sufficient fissile-materials, India agreed to work towards the early conclusion of FMCT without having any such stockpile. To hold the nuclear deal hostage to India's acceptance of a moratorium on its fissile material production amounts to ignoring India's security concerns. India faces two nuclear armed neighbours - Pakistan and China - on either side of its border. Several reports have confirmed the clandestine nuclear proliferation deals that exist between them. In 2000, an NBC report indicated that Pakistan possesses a larger nuclear arsenal than India. In August 2005, Pakistan test-fired the Babur missile which was alleged to be a replica of the Chinese Hong Niao nuclear-capable cruise missile. In the face of such looming threats, it is impossible for India to terminate its nuclear weapons programme and jeopardize its national interests.

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This statement assumes that the Indo-US civil nuclear cooperation "would trigger a significant erosion of the guidelines of the 45-member NSG, which is an important barrier against the transfer of nuclear material, equipment and technologies for weapon purposes." The NSG was established to prevent states of concern from violating the non-proliferation rules and laws by imposing full-scope safeguards. But the NSG guidelines were flouted by Pyongyang that embarked on a nuclear weapons-oriented programme and transferred nuclear missile technology to Pakistan while remaining a signatory to the NPT. The same is true in the case of China. Despite being an NSG and NPT member, China remains a challenge to the non-proliferation regime. The existing nexus between China and Pakistan on matters relating to nuclear weapons and materials cannot be disputed. The supposition that NSG is an effective barrier against illicit trafficking of nuclear material and technology is fallacious. A thriving nuclear

black-market is flourishing outside the NSG and states of concern have realized their nuclear weapons ambitions.

The letter issued by the US officials. It dwells on issues which are not only erroneous but also misleading. It perceives the Indo-US civilian nuclear deal from the narrow perspective of nuclear proliferation. It appears oblivious to the basic rationale of the Indo-US nuclear deal - civilian nuclear energy cooperation to meet India's energy requirements. With a burgeoning population and a rapidly expanding economy, India has to meet its growing demands. The letter ignores this vital aspect. The non-proliferation experts also remain oblivious to India's security concerns. Premised upon certain hypothetical assumptions, the group seeks to scuttle a "finely balanced deal" and weaken an emerging strategic partnership between India and the United States. What is shocking is that this group of experts has not approached the Congress about nations who have been openly violating its laws with impunity for decades. The letter does not address the issue of global nuclear disarmament which is the cardinal principle of India's nuclear policy.

In conclusion, the biased views and imagined fears voiced by the experts is misleading. India as the largest democracy in the world is concerned about non-proliferation. It has reiterated its commitment to global disarmament and displayed responsibility on nuclear weapons related issues. The Pokhran tests of May 1998 have further reinforced its obligations and responsibility towards the non-proliferation regime. India is a responsible nation and hence there is no reason to deny civilian nuclear commerce and global partnership to the world's largest democracy.



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