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The US-India Nuclear Deal:  
Another Wrong Turn in the War on Terror

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The Bush administration is making another costly detour on the road to keeping the most dangerous weapons out of the wrong hands. At a time when the administration needs to work as hard as it can to tighten nonproliferation rules against Iran and North Korea, it is seeking to loosen the rules for India. The permissive nuclear deal struck with New Delhi made President Bush's maiden voyage to Pakistan anticlimactic. State visits present unusual opportunities to focus the mind, to break through political barriers, and to achieve deliverables. But this trip wasn't focused on Osama bin Laden and the Taliban's resurgence within Pakistan's borders, the infiltration of jihadis across the Kashmir divide into India, or their bomb blasts that could spark another nuclear standoff on the Subcontinent. Instead, this trip was mostly about securing a nuclear cooperation agreement with India, a deal which will loosen the global rules designed to prevent proliferation and acts of nuclear terrorism.

Whenever US leaders lose focus, events have a way of reminding them of their priorities. During President Bush's stay in India, a US diplomat was killed by a suicide car bomber in Karachi. And shortly after returning home, two bomb blasts rocked Varanasi, a city that is as revered to Hindus as Bethlehem is to Christians. The fragile process of normalization between Pakistan and India could be held hostage by such acts of terror. Likewise, Pakistan's ties to Afghanistan are increasingly shaky. The central dilemma of US policy on the Subcontinent continues to be Pakistan's increasingly wobbly partnership in the global war on terror. President Bush focused on terrorism during his one-day visit to Islamabad, but he left his Pakistani hosts with many grievances and no gifts. India got a pledge to rework the rules of global nuclear commerce to suit their domestic growth and bomb lobby.

This misdirection of time and high-level attention will be sustained for months to come, as the Bush administration seeks to convince the Congress and the Nuclear Suppliers Group that closer US ties with India warrant relaxed controls governing nuclear commerce. The administration has placed a very large bet that the upside of a geo-strategic partnership with India will outweigh the downside risks of proliferation. This bold wager is every bit as consequential as the decision to topple Saddam Hussein.

Before accepting this bet, the Congress needs to ask some hard questions. If the nuclear deal is based on dubious assumptions and poor planning, like the decision to wage a war of choice in Iraq, this initiative may need to be recast. One key assumption behind the deal is especially important -- that the relaxation of nuclear export controls can be confined to India alone. If this assumption is wrong, downside proliferation risks will be open-ended.

At a time when Iran and North Korea are frontally challenging the Nonproliferation Treaty, the Bush administration is charging full speed ahead with fast-track legislation to make India an exception to the nonproliferation rules we seek to impose on others. India is decidedly different from these problem cases, and a strong case can be made for helping New Delhi to fuel its economic growth. Regrettably, the deal the Bush administration struck helps India to grow its economy and its nuclear weapon stockpile. Friends of India in the Congress and elsewhere should not have to endorse both. Nor should they be forced to choose between better ties with India over tough controls against nuclear commerce. This choice was unnecessary as well as untimely: The nuclear deal with India was not needed for vastly improved ties, and may now interfere with them, even if the Congress prudently attaches conditions to the agreement.

In addition to persuading Congress, the administration will also have to work hard to seek the deal's approval in the Nuclear Suppliers Group. The NSG is a 45-member organization that operates by informal consensus. With much prodding by the United States and other key stakeholders in the Nonproliferation Treaty, suppliers have progressively tightened the rules of nuclear commerce. If the consensus rule is weakened by side deals in order to push the India deal through, or if it is broken entirely, many more "exceptions" will follow.

President Bush's latest, bold geo-strategic gamble was made in a familiar way, creating a *fait accompli* that is politically difficult to contest. Downside risks have been swept aside by confident, uncontested assumptions. Second guessers and experts in the executive branch have been excluded. Consultation with Congress and friendly capitals prior to the decision to strike the deal was minimal or non-existent. If past is again prologue, it is unlikely that the best judgment of the newly revamped intelligence community was sought in advance of the President's latest transformative idea.

And so the "mission accomplished" in Iraq has now been followed by the mission accomplished of a new nuclear deal with India. The familiar refrain of "we are where we are" has already been heard in defense of this deal, along with the argument that altering the agreement would threaten the much celebrated, new geo-strategic partnership with India. But if the administration's latest *idée fixe*, like the Iraq mess, is based on rosy scenarios and false assumptions, Congress would be foolish to "just say yes." Conditions must be attached to the authorizing legislation to limit down-side risks.

One key assumption behind the deal is correct: Converging US and Indian interests and shared values will lead to much closer cooperation. A second key assumption, that Washington should accelerate this partnership, is also correct. A third assumption – that

India would naturally serve as a counterweight to China – helps explain why the administration has given New Delhi a free pass on nuclear testing, fissile material production, and stockpile growth. This assumption rests on shaky ground. New Delhi is moving steadily to improve ties with Beijing along with Washington. India has not emerged from the shackles of colonial rule or the shadows of the Cold War to do Washington's bidding against China. If this is the Bush administration's game, it has misestimated its new strategic partner and chosen the wrong centerpiece for the partnership.

Our biggest nightmare, as the Bush administration has correctly and repeatedly stated, is the most dangerous weapons in the wrong hands. The interlocking network of laws, regulations, and collaborative efforts to prevent nuclear nightmares is built around the Nonproliferation Treaty. The Treaty and its reinforcements, such as the International Atomic Energy Agency and the Proliferation Security Initiative, allow us to distinguish between good guys and bad guys. But it's the rules, and not the labels, that matter most.

The rules are imperfect but essential. Respecting them provides the basis for prosecution, coalition building, and enforcement. Domestic traffic laws don't allow some people to speed, but not others. Nor do international treaties distinguish between friends and foes, since one nation's friend can be another's foe. We can't sidestep this dilemma by distinguishing between friendly states and problem states. Such distinctions are rarely permanent or clear cut. We all know that friendly states can also be problem states, as is evident in Pakistan. Yesterday's friend can become tomorrow's adversary, and vice versa. Teheran's nuclear program, for example, dates back to our late friend, the Shah of Iran.

It's hard for a sheriff to uphold the law against bad guys while making exceptions for good guys. This is precisely what the Bush administration proposes to do for India. India is a special case, because it doesn't belong under the NPT's big tent. It is worth the effort to bring India under the tent – if the effort to do so doesn't contribute to its collapse. Stakeholders in the NPT have been working hard to shore up the tent by tightening export controls and by strengthening inspections at nuclear facilities. The more successful they have been, the more they have squeezed India. More tightening of export controls is clearly needed, even as we seek to make some dispensation for India, which, as the administration asserts, is a responsible state with advanced nuclear technology. The resulting dilemma is inescapable, since the rules we change on India's behalf can also weaken the rules we want other nations to abide by.

The best way to deal with this dilemma would be to help India's electricity needs without catering to India's bomb makers. This was the deal the Bush administration promised to deliver to Congress. To clarify this intent, the administration required that New Delhi produce a plan to separate its military and civilian nuclear facilities. Civilian nuclear facilities would all be placed under safeguards in perpetuity, including fast breeder reactors. The resulting separation plan would be credible and defensible by nonproliferation standards. India's chief negotiator agreed, saying that, "it makes no sense for India to deliberately keep some of its civilian facilities out of its declaration for

safeguards purposes if it is really interested in obtaining international cooperation on as wide a scale as possible. This would be quite illogical."

The deal the Bush administration completed under a deadline is indeed illogical – and far different from the one it pledged to negotiate. Instead, the Government of India insisted upon a deal that its bomb makers could live with, and the Bush administration hastily consented under the deadline of the President's visit to New Delhi. India has refused to place safeguards on eight power plants that are well suited for plutonium production, while agreeing to safeguards on ten others (in addition to four already under IAEA scrutiny). India also refused to place under safeguards a test fast breeder reactor and a prototype fast breeder now under construction.

If this were not enough of an insurance policy for the nuclear lobby in India, the Bush administration did not secure the requirement that all future construction of nuclear power plants and fast breeders be under safeguards. Nor has the administration secured safeguards in perpetuity, as it promised the Congress. Instead, the administration pledged to support what New Delhi calls "India-specific" safeguards, which will be conditioned on the indefinite supply of fuel. Under this formulation, India could resume nuclear testing or take other harmful steps to nonproliferation norms without crimping its nuclear ambitions.

The possibility that India will resume nuclear testing could explain why it is one of only seventeen countries that have refused to sign the treaty banning all tests for all time (along with Pakistan, North Korea, Syria, Saudi Arabia, and Cuba). India is one of four countries whose nuclear arsenal is growing (with China, Pakistan and North Korea), and one of only three countries (with Pakistan and North Korea) currently producing fissile material for nuclear weapons. Ten years from now, when the first new foreign-supplied nuclear power station would come on line from this deal, India will likely have doubled the size of its nuclear arsenal. This agreement could increase this estimate many fold.

Not since the Lend Lease Agreement has Washington held such a strong hand and negotiated so benevolently. In return for placing ten additional power plants under conditional safeguards, the Bush administration has promised to change US laws and to convince the 44 other nations belonging to the Nuclear Suppliers Group to make a special exception for India from the rules that apply to more than 180 other countries.

Given how bomb-friendly this deal is, much will depend on how New Delhi interprets its doctrinal requirements for "credible minimum" deterrence. This admirable formulation has been defined in a remarkably relaxed way while India has been subject to nuclear export controls. But there remains an inherent tension between the dictates of "credibility" and nuclear minimalism, and this agreement will help New Delhi make poor choices. All of India's nuclear options remain wide open. Pakistan and China will take note of this and plan accordingly. Compensatory steps are likely to fall well below the threshold of an arms race, but cascade effects seem unavoidable.

Even if this deal is muscled through the Congress and the Nuclear Suppliers Group, a troubling precedent will have been set that is likely to be exploited by other willing suppliers and buyers. One deal waiting in the wings is between China and Pakistan. Because the administration is so invested in carving out an exception for India, it may well consent to damaging side deals to achieve consensus in the Nuclear Suppliers Group. If the consensus rule is broken or weakened to force through the US-India nuclear initiative, the damage to nonproliferation could be irreparable.

Stakeholders to the Nonproliferation Treaty have been badly undercut by this deal. The Bush administration is right to focus on those outside or seeking to exit the NPT's big tent, but wrong to treat those holding up the tent in a dismissive way. Stakeholder meetings have gone very badly since the Treaty was indefinitely extended in 1995. The Bush administration has walked away from the treaty nuclear abstainers want most – one banning future nuclear testing – and declared another that would end fissile material production for weapons to be unverifiable. Many allies of the United States have taken issue with the Bush administration's a la carte approach to the NPT, where commitments that crimp freedom of action for “good guys” are relaxed, while tighter restrictions are sought for bad actors.

As currently structured, the nuclear deal accelerates a geo-strategic partnership with India as well as the demise of the NPT. No friend of India in the Congress or elsewhere should be faced with this stark choice. We have arrived at this choice by means of another major detour in the war against terror. The nuclear deal with India diverts us from far more pressing matters. If two key assumptions behind the deal are faulty – that the geo-strategic gains from closer ties with India will outweigh proliferation losses, and that exceptions to the rules can be limited to India – we will be making it easier for the worst weapons and material to find their way into the wrong hands. To President Bush's credit, he does not shy away from tackling difficult problems. Boldness can be a virtue in the dangerous world in which we live. The President's gutsiness is not at issue here; his judgment and priorities are.

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