

## ◆ Press Releases

[Back](#)

### Backgrounder on India-U.S. Civilian Nuclear Energy Cooperation

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New Delhi

- \* The Joint Statement reaffirms that India-U.S. relations are based on common values and interests. It amplifies the U.S. acknowledgement of India as a global power and closer relations and partnership between the two countries as being in the interest of both countries.
- \* The core of the commitments made by both countries is predicated on building India-U.S. engagement and bilateral cooperation through multifaceted actions across an entire range of issues to promote India's economic growth and development, including infrastructure, energy, high technology and space, and agriculture.
- \* This is continuation of a process commenced by high level interactions of successive governments in India and the United States. Prime Minister Vajpayee's visit to Washington DC in November 2001 and the NSSP unveiled by him on 13th January 2004 had identified civilian nuclear activities, civilian space programmes, and high technology trade as key areas of bilateral cooperation. Cooperation under NSSP was limited, however, to what was permissible under prevailing U.S. domestic law, policies and regulations, and obligations under international regimes. The U.S. Government has committed to adjusting all three dimensions to enable full cooperation with India in the nuclear energy sector.
- \* The Joint Statement of 18th July marks the beginning of a new basis of cooperation in these areas, particularly full civil nuclear energy cooperation, **unencumbered by the erstwhile technology denial regime**. This is expression of intent that the United States has no desire to restrict progress in the peaceful uses of nuclear energy and that it wants to promote the full potential for cooperation.
- \* Cooperation between the two countries will be pursued on the basis of reciprocity and non-discrimination. On nuclear cooperation, a working group will steer progress in ways that build on these two principles through a series of reciprocal steps that build on each other. This will be an evolving process.

India's Benefits: India was successful in persuading the US to embark on full civil nuclear energy cooperation, amending its domestic laws and policies while adjusting international regimes. This ends a policy of targeting Indian programmes that has been in place since 1974. **We not only secured fuel for Tarapur and opened up the possibility of fuel supply for other safeguarded reactors, but also got the US to refrain from vetoing fuel supplies by other countries (Russia, France) as it had in the past.** The US also agreed to consider Indian participation in the ITER fusion programme and the Generation-IV advanced reactors that represent frontier areas in nuclear technology. Our scientists will, as a result, no longer be denied opportunities in global nuclear research programmes. There is also an explicit recognition of India as 'a responsible state with advanced nuclear technology'.

India's Obligations: In return, India accepted the same responsibilities and practices as other states with advanced nuclear technology. These include identifying and separating civilian and military facilities in a phased manner, placing its civilian facilities under IAEA safeguards and signing an IAEA

Additional Protocol. A number of existing policies were also reiterated by India, among them a unilateral moratorium on nuclear testing, working towards conclusion of a multilateral Fissile Material Cut-off Treaty, non-transfer of enrichment and reprocessing technologies, securing nuclear materials and technology through export control and harmonisation with MTCR and NSG guidelines.

Separation and Capping: Separation of civilian and military facilities has been undertaken by nuclear weapon states, each in its own way. They have gone on to also declare to differing extent their civilian facilities to IAEA. In the case of US alone, the number of such facilities exceeds to 200. The identification and separation of Indian facilities would be done by the Government of India. National security considerations would dictate this. Some quarters have sought to portray the separation as leading to a capping of our strategic programmes. This is completely untrue. It is entirely for India to decide which facilities are of military significance. These will remain outside the purview of international inspections and scrutiny. The size of our deterrent will be determined in accordance with our own assessment of our security interests and this will be appropriately reflected in identification of military facilities.

Flexibility: An argument has been made that separation into civilian and military programmes will rob India of flexibility if that is required by unanticipated circumstances. Nuclear weapon states, including the US, have the right to shift facilities from civilian category to military and there is no reason why this should not apply to India. This also addresses possible concerns on capping.

Reciprocity: The Joint Statement clearly states that India's commitment is reciprocal. If the United States does not fulfil its obligations, there is no pressure on India to do so either. Therefore, there may be no apprehension that India would be bound by the understanding even if the US side cannot deliver on its part. Moreover, India's obligation to undertake separation is qualified as being conducted in a phased manner. That would allow adequate verification of action taken on the US side before India takes reciprocal measures.

Additional Protocol: This is actually more relevant to non-nuclear weapon states undertaking clandestine programmes than to declared weapon states. All five NPT nuclear weapon states have signed the Additional Protocol and three of them (China, France and UK) have allowed it to come into force. We have only agreed to an additional protocol and, therefore, there need not be anxieties about its impact on India. It may also be noted that such Protocols are negotiated by the nuclear weapon states with IAEA and include specific provisions reflecting the national characteristics of the programme.

Fissile Material Cut-off: The Joint Statement reiterates the existing policy of working towards a multilateral Fissile Material Cut-off Treaty. There is no commitment at all to cease production of fissile material ahead of the conclusion of such a multilateral treaty.

The agreement reached during PM's visit promises to put an end to three decades of nuclear technology denial to India. It could provide us nuclear fuel that is necessary if we are to expand our civilian nuclear programmes. A major expansion in civilian nuclear power will be facilitated through international cooperation. The framework for such cooperation has been agreed to in the Joint Statement. India has accepted responsibilities in a strictly non-discriminatory manner (i.e. the same as other nuclear weapon states). Our strategic programmes have been fully protected while evolving a new arrangement. This has been done in a risk free manner and if US fails to deliver, India too has every right to refrain from implementing its obligations. In the past, India faced pressure on its strategic programmes as a pre-condition for international cooperation on civilian nuclear energy. On this occasion, we have achieved our goals without any dilution of commitment to the strategic programmes. This sets the stage for a significant growth in our civilian nuclear energy sector that would address our acute energy shortage and provide the basis for accelerated Indian economic growth rate.

## FAQs on the India-US Joint Statement

Q: What is the significance of the agreement between India and the United States for civilian nuclear energy cooperation as reflected in the Joint Statement?

A: The Joint Statement reflects the preparedness, on the part of the U.S. Government, to begin a process of dismantling the restrictive technology denial regime that restricted India's access to nuclear technology and materials for India not having joined the Nuclear Non-proliferation Treaty. The United States has committed to take certain steps, nationally and internationally, working with Congress and together with its allies, to remove restrictions imposed on our access to civilian nuclear technology, equipment and materials. India, in turn, has committed to taking reciprocally exactly the same steps that other nuclear weapon States have taken.

Q: Does the commitments made by the United States amount to recognition of India as a nuclear weapon State?

A: The agreement between India and the United States is not about nuclear weapon status. The steps that the two countries have reciprocally agreed to take should be seen as essential steps for broadening our cooperation in civilian nuclear sector. We look upon this agreement as a recognition of India's accomplishments in the peaceful uses of atomic energy.



Q: Why can the United States not commence civilian nuclear energy cooperation with India immediately?

A: U.S. domestic laws and the commitments that it has undertaken as part of its membership of Nuclear Suppliers Group restrict such cooperation at this stage. However, the U.S. Government has committed itself, at the highest level, to work to achieve full civilian nuclear energy cooperation with India, taking into account India's growing energy requirements, the impact of Indian energy needs on global environment in case it is mostly dependent on fossil fuels, the crucial role consequently of nuclear energy in our desired energy mix, the advanced state of India's capabilities in the nuclear sector, India's responsible behaviour and its impeccable anti-proliferation record.

Q: How will the understanding reached by the two countries be implemented?

A: The actions to be undertaken by the United States and India are clearly enumerated in the Joint Statement, which both sides are committed to implement as soon as possible. These will be strictly reciprocal. India will implement its steps in phases.

Q: What were the specific impediments to such cooperation on the part of the United States?

A: The U.S. Atomic Energy Act (AEA) of 1954, as amended by the Nuclear Non-Proliferation Act (NNPA) of 1978 categorises India as a non-nuclear weapons state (NNWS) and, hence, subject to full scope safeguards. Similarly, NSG guidelines specify that nuclear reactors and material can be supplied to non-nuclear weapons States, defined under NPT, only under full scope safeguards. For full civil nuclear energy cooperation, involving transfers of nuclear equipment, technology and materials, an India-U.S. agreement on nuclear cooperation (like the agreement of 1963) and modifications to NSG guidelines, are required. President Bush has committed to seek agreement from the U.S. Congress to adjust U.S. laws and policies, as also to work towards adjusting international regimes, in this regard.

Q: What was the basis of India-U.S. cooperation on civilian nuclear energy cooperation in the past?

A: India and the United States had signed an agreement on Civil Uses of Atomic Energy on August 8, 1963 in Washington DC and the agreement entered into force for a period of 30 years on October 25, 1963. The Tarapur Atomic Power Station was set up as a result of U.S. assistance. After the nuclear test in 1974, differences cropped up and eventually the U.S. withdrew from the agreement.



Q: Has India remained under a U.S.-inspired technology denial regime? How much progress on civilian nuclear energy cooperation been made in recent years?

A: Economic, defence and technology-related sanctions imposed on India following the nuclear weapon tests in May 1998 were lifted in September 2001. However, certain long standing restrictive policies on transfer of sensitive nuclear and missile technologies to India remain in place. The U.S. side also maintains the so-called Entity List, which places the organisation listed therein to tighter export controls. Although the Entity List has been pruned down from 159 organisations, it still remains in double digits (they include Department of Atomic Energy's BARC; Indira Gandhi Atomic research Centre; Indian Rare Earth; all nuclear facilities, Bharat Dynamics Limited and DRDO's Solid State Physics Laboratory). A number of Indian organisations have been taken off the Entity List since 18th July 2005 and India believes that the remaining organisations should also be removed from that list expeditiously.

There was some progress on civilian nuclear energy cooperation since the lifting of sanctions in September 2001. India and the United States initiated five safety related projects for safeguarded nuclear facilities. Exchange of visits by U.S. and Indian nuclear regulatory officials also commenced. The United States conveyed in November 2002 that it would follow a policy of favourable consideration for export of unilaterally controlled 'balance of plants' equipment and components (the non-nuclear cycle) for safeguarded nuclear facilities. The United States offered consultations, training and certain components required for personnel and environment protection against radiation for safeguarded nuclear reactions. It also offered India's membership of the Nuclear Regulatory Commission research groups developing accident analysis software.

We hope to make significant progress in this area through modification in existing U.S. regulations, in the spirit of the new relationship and the shared commitment to qualitatively transform bilateral relations.

Q: How can Government describe the commitments in Joint Statement as 'significant'?

A: The commitments are significant because they demonstrate U.S. willingness to move away from highly restrictive policies put in place after the nuclear tests, going all the way back to 1974, and seek ways to meet India's requirements of developing civilian nuclear sector. It has also committed to work with its friends and allies to adjust the international regime.

Q: Has the United States pressed India to make compromises on its nuclear and missile programmes in order to make progress on civilian nuclear energy cooperation?? Has India undermined its nuclear deterrent? Is this a backdoor to push India towards signing the NPT?

A: The issue of India's nuclear weapons or NPT has not been raised in our dialogue with the United States. Our dialogue is predicated on India maintaining its strategic programme. Our nuclear deterrent cannot be subject of negotiations with foreign governments and is strictly within our sovereign domain. India has rejected demands for joining the NPT as a non-nuclear weapon State. However, India has always remained committed to the non-proliferation and disarmament objectives of the treaty. Our record on non-proliferation is impeccable and development of our nuclear-weapon capability has not diminished our commitment to non-discriminatory global disarmament.

Q: What other conditions have the U.S. Government imposed on India?

A: There are no conditions on either side. Understandings have been clearly spelt out in the joint statement. We have agreed to clearly articulated reciprocal steps. We believe progress on civilian nuclear cooperation stands on its own merit in the context of the shared desire of the two countries to transform bilateral relations and develop a long-term and closer partnership.

Q: Will such cooperation adversely affect India's nuclear deterrent?

A: Cooperation in the sectors of civilian nuclear energy and outer space between India and the United States is predicated on India maintaining its indigenous nuclear and missile programmes and the commitments made by India will have no impact whatsoever on our minimum credible nuclear deterrent.

Q: Does India have to take specific steps before the United States makes any moves?

A: The Joint Statement talks about steps to be taken reciprocally. These steps will build on each other. These steps will be discussed in the Working Group.

Q: The U.S. offer is vague and seems on a best-endeavour basis, while India's commitments are cast in iron. Isn't there an imbalance between the obligations assumed?

A: The public affirmation by the U.S. President of its commitments has the same status as the commitment by India to take certain reciprocal steps.

India's nuclear policy is one of restraint, responsibility and defensive orientation and India has assumed the same obligations as the other nuclear weapon States. These obligations are in conformity with our long-standing policy on non-proliferation of nuclear weapons, related materials, equipment and technology and the means of their delivery. Nuclear energy is to play a critical role in ensuring our energy security, and the United States, recognizing the importance of nuclear energy in meeting our energy demands, has committed to certain steps in order to step-up cooperation in the civilian nuclear sector by working to lift restrictions faced by India within the domestic US law and international export control regime like NSG.

Q: Since the military programme in India is only a small part of the overall nuclear programme, will not the separation of the civilian and military facilities increase costs for India?

A: There is no question of any increased or infructuous expenditure since a military facility can also continue to do civilian work, as indeed is the case in the nuclear weapon States. While no weapons related work can be carried out in a civilian facility, there is no bar whatsoever on civilian work being done in a military facility.

Q: Will the separation of civilian and military facilities not imply that India will open all its nuclear reactors to inspection, including challenge inspection, or anytime-anywhere inspection that is part of the Model Additional Protocol?

A: India will not accede to full-scope safeguards. IAEA safeguards shall apply to facilities to be designated by India voluntarily. India will also negotiate an Additional Protocol with IAEA applicable to the designated civilian facilities. In this respect there will be no discrimination between India and other Nuclear Weapon States.

Q: Does the separation of military and civilian nuclear facilities not automatically create a cap on India's fissile material production?

A: No. The designation of civilian facilities will be based on our assessment and decision and it will take into account the requirements of maintaining a credible minimum deterrent to fully safeguard our security interests. We will ensure that there will be no shortage of fissile materials for our strategic programmes.

Q: By agreeing to work with the United States on a Fissile Material Cut-Off Treaty, are we still not accepting a cap on our fissile material production?

A: India has a long-standing commitment to negotiating multilateral FMCT in the Conference on Disarmament in Geneva and the joint statement just reflects that commitment. We have not accepted any unilateral moratorium on fissile material production before FMCT is negotiated and enters into force for all countries.

Q: How will the agreement with the United States help in nuclear cooperation with other countries?

A: President Bush has promised to work with the friends and allies of the United States to adjust international regimes to enable full civil nuclear energy cooperation and trade with India. The removal of the restrictions currently imposed by NSG will enable India to obtain nuclear technology, material and equipment for civilian nuclear sector internationally. Restrictions on India will be fully removed. India will join a select group of countries possessing such advanced research capabilities.

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