

Avoiding One Pitfall in U.S.-India Relations

By Michael Krepon and Samuel Black

The L'Aquila Statement on Non-Proliferation, released at the end of the G-8 Summit in Italy, received little notice – except in India. Some in New Delhi took exception to one paragraph of the communiqué that called on the Nuclear Suppliers Group (NSG) to make further progress “on mechanisms to strengthen controls on transfers” of enrichment and reprocessing (ENR) technologies.

The Government of India has argued that the civil nuclear cooperation agreement negotiated with the Bush administration and its subsequent endorsement by the NSG permits such transfers to India. As long as the transferred enrichment and reprocessing equipment is solely dedicated to peaceful uses, New Delhi argues, it should be provided along with nuclear power reactors and fuel deliveries.

As Secretary of State Hillary Clinton visits India, it would be unfortunate if this issue becomes a source of contention between Washington and New Delhi. The public record of the civil nuclear cooperation agreement between the United States and India is quite clear that the transfer of ENR technologies was not part of the deal endorsed by Congress and signed into law by President Bush:

- In responses provided to the Senate Foreign Relations Committee in November, 2005, Under Secretary of State Bob Joseph stated, “We do not intend to provide enrichment and reprocessing technology to India. As the President said in February 2004, ‘enrichment and reprocessing are not necessary for nations seeking to harness nuclear energy for peaceful purposes.’ We do not currently provide enrichment and reprocessing equipment to any country.”

- In April 2006, Senator Lugar sought reaffirmation of this policy from Secretary of State Condoleezza Rice, who did so, answering, “Thus, it was stated, without any qualifications or reservations, that the United States would not export such technologies to India.”
- The “Hyde Act,” in which the House and Senate agreed to waive certain restrictions on nuclear commerce with India, contained restrictions in Section 104 (d)(4) on certain types of commerce: “exports, re-exports, transfers, and re-transfers to India related to enrichment, reprocessing, and heavy water production.” These restrictions can only be waived if onerous provisions are satisfied.
- The House Foreign Affairs Committee Report endorsing civil nuclear commerce with India included the following language: “Because the processes of enriching uranium or separating plutonium for peaceful or military purposes are essentially identical, they inherently pose an enhanced risk of proliferation, even under strict international inspections... In addition, the Committee notes that it is well-established policy of the United States not to transfer sensitive nuclear technology, including reprocessing or enrichment technology, to any state... The Committee finds that no part of this legislation should be interpreted to allow for any exceptions to this policy.”
- The Senate Foreign Relations Committee Report endorsing civil nuclear commerce with India reinforced this message: “The Committee believes that the United States must work with other nations to prevent the export of potentially harmful technologies. NSG guidelines are not as strict as they ought to be regarding exports of enrichment and reprocessing equipment and technology, and the Committee supports the administration’s efforts to achieve consensus on tightening those guidelines.”
- President Bush’s transmittal letter to Congress of the 123 (Implementation) Agreement for the U.S.-India civil nuclear cooperation agreement included the following language: “Sensitive nuclear technology, heavy water production technology and production facilities, sensitive nuclear facilities, and major critical

components of such facilities may not be transmitted under the Agreement unless the Agreement is amended.”

The Obama administration is not departing from the Bush administration’s position on ENR; nor did the recent G-8 statement break new ground on this subject. The 2004 G-8 Summit communiqué stated that enhanced International Atomic Energy Agency inspections of all national nuclear facilities must be a precondition of ENR transfers: “The Additional Protocol must become an essential new standard in the field of nuclear supply arrangements. We will work to strengthen NSG guidelines accordingly.”

The reasons for such a clear and consistent U.S. policy toward ENR transfers are compelling, and have become even more so with developments in Iran and North Korea.

India is a responsible nation possessing advanced nuclear technologies. Iran and North Korea, in stark contrast, have violated numerous Security Council resolutions regarding their nuclear programs, including those related to enrichment and reprocessing. Success in dealing with North Korea and Iran requires, inter alia, strengthened global norms against transferring ENR technologies. Global norms matter because they increase leverage against bad actors. Global norms are weakened when the United States or any other nuclear supplier seeks permissive rules for friends.

Moreover, the pursuit of ENR technologies by India comes at an awkward time. India is one of a handful of countries that has not signed the Comprehensive Test Ban Treaty, and one of a very small number of states that is increasing its stocks of bomb-making material and growing its nuclear arsenal.

India has the sovereign right to test more nuclear weapons, produce more bomb-making fissile material and build up its stockpile of nuclear weapons. The United States and members of the NSG have a sovereign right not to provide states with nuclear technologies of particular sensitivity.

The Obama administration is unlikely to reverse the Bush administration's policy on this issue. New Delhi can push on many open doors for improved cooperation and trade with the United States. Why push on one that isn't open?

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