

## **Prepared Remarks of**

**Robert G. Joseph**

**Under Secretary of State for Arms Control and International Security**

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**Senate Foreign Relations Committee**

**Hearing on U.S.-India Civil Nuclear Cooperation Initiative**

Chairman Lugar, Senator Biden, distinguished members of the Committee, it is an honor to appear before you today to discuss the President's policy toward India with respect to civil nuclear cooperation. I look forward to working with you over the months ahead to bring this important objective to a timely and successful outcome.

### Toward U.S.-India Civil Nuclear Cooperation

We believe it is in our national security interest to establish a broad strategic partnership with India that encourages India's emergence as a positive force on the world scene. Our desire to transform relations with India is founded upon a contemporary and forward-looking strategic vision. India is a rising global power and an important democratic partner for the United States. Today, for the first time, the United States and India are bound together by a strong congruence of interests and values. We seek to work with India to win the global War on Terrorism, to prevent the spread of weapons of mass destruction and the missiles that could deliver them, to enhance peace and stability in Asia, and to advance the spread of democracy. India and the United States are on the same side of these critical strategic objectives. Our challenge is to translate our converging interests into shared goals and compatible strategies designed to achieve these aims.

In the context of this growing partnership, the United States and India reached a landmark agreement in July to work toward full civil nuclear cooperation while at the same time strengthening the nuclear nonproliferation regime. The Joint Statement agreed to by President Bush and Prime Minister Singh is not – as some have argued – a triumph of power politics over nonproliferation principles. This is not a zero-sum trade-off,

whereby improvement in our bilateral strategic relationship results in nonproliferation losses. Rather, as the broadly-constituted Joint Statement is implemented, it will prove a win for our strategic relations, a win for energy security, and a win for nonproliferation.

India believes, and our Administration agrees, that it needs nuclear power to sustain dynamic economic growth and to address its growing energy requirements in an affordable and environmentally-responsible manner. Our goal – in the context of the Joint Statement – is to provide India access to the technology it needs to build a safe, modern and efficient infrastructure that will provide clean, peaceful nuclear energy.

At the same time, India has clearly demonstrated over the past several years its desire to work with the United States and the international community to fight the spread of sensitive nuclear technologies. As part of an effort launched with India during the Administration's first term – the Next Steps in Strategic Partnership – India took a number of significant steps to strengthen export controls and to ensure that Indian companies would not be a source of future proliferation. Not only did India pledge to bring its export control laws, regulations, and enforcement practices in line with modern export control standards, but also passed an extensive export control law and issued an upgraded national control list that will help it achieve this goal. In addition, India has become a party to the Convention on the Physical Protection of Nuclear Material and has taken significant steps toward meeting its obligations under UNSCR 1540.

The additional nonproliferation commitments India made as part of the Joint Statement go even further and, once implemented, will bring it into closer conformity with international nuclear nonproliferation standards and practices. This is a very important move for India and for the nonproliferation community. While we will continue to work with India and to encourage it to do more over time, India's implementation of its commitments will, on balance, enhance our global nonproliferation efforts. We expect the international nuclear nonproliferation regime will emerge stronger as a result.

As evidence of this expectation, we note with satisfaction India's positive IAEA Board of Governors vote in September on Iranian non-compliance, and look forward to further cooperative action on this critical international security issue.

## Nonproliferation Gains

Through the Joint Statement, India has publicly committed to a number of important nonproliferation steps. It will now:

- Identify and separate civilian and military nuclear facilities and programs and file a declaration with the International Atomic Energy Agency (IAEA) regarding its civilian facilities;
- Place voluntarily its civilian nuclear facilities under IAEA safeguards;
- Sign and adhere to an Additional Protocol with respect to civilian nuclear facilities;
- Continue its unilateral moratorium on nuclear testing;
- Work with the U.S. for the conclusion of a multilateral Fissile Material Cut-Off Treaty (FMCT) to halt production of fissile material for nuclear weapons;
- Refrain from the transfer of enrichment and reprocessing technologies to states that do not have them and support efforts to limit their spread; and
- Secure nuclear and missile materials and technologies through comprehensive export control legislation and adherence to the Missile Technology Control Regime (MTCR) and Nuclear Suppliers Group (NSG).

India's commitment to separate its civil and military facilities and place its civil facilities and activities under IAEA safeguards demonstrates its willingness to assume full responsibility for preventing proliferation from its civil nuclear program. It will also help protect against diversion of nuclear material and technologies to India's weapons program.

By adopting an Additional Protocol with the IAEA, India will commit to reporting to the IAEA on exports of all NSG Trigger List items. This will help the IAEA track potential proliferation elsewhere, and bolster our efforts to encourage all states to adopt an Additional Protocol as a condition of supply.

By committing to adopt strong and effective export controls, including adherence to NSG and MTCR Guidelines, India will help ensure that its companies do not transfer sensitive weapons of mass destruction and

missile-related technologies to countries of concern. In July, India took an important step by harmonizing its national control list with the NSG Guidelines and by adding many items that appear on the MTCR Annex.

India has also committed to work with the United States toward the conclusion of a multilateral FMCT, which, if successfully negotiated and ratified, will ban the production of fissile material for use in nuclear weapons or other nuclear explosive devices.

India's pledge to maintain its nuclear testing moratorium contributes to nonproliferation efforts by making its ending of nuclear explosive tests one of the conditions of full civil nuclear cooperation. Since to date Pakistan has test-exploded nuclear weapons only in response to Indian nuclear tests, this commitment will help diminish the prospects for future nuclear testing in South Asia.

By committing not to export enrichment and reprocessing technology to states that do not already have such fully-functioning capabilities, India will help us achieve the goals laid out by President Bush in February 2004, designed to prevent the further spread of such proliferation sensitive equipment and technology. This will help close what is widely recognized as the most significant loophole in the Nuclear Non-proliferation Treaty regime – a loophole that has clearly been exploited by countries such as North Korea and Iran and could be manipulated by others in the future.

Each of these activities is significant. Together, they constitute a substantial shift in moving India into closer conformity with international nonproliferation standards and practices. Their successful implementation will help to strengthen the global nonproliferation regime.

As befits a major, responsible nation, and in keeping with its commitment to play a leading role in international efforts to prevent WMD proliferation, we hope that India will also take additional nonproliferation-related actions beyond those specifically outlined in the Joint Statement. We view this as a key component of the developing U.S.-India strategic partnership and look forward to working with the Indian Government, as well as the international community more broadly, to further strengthen nonproliferation efforts globally.

Through our ongoing bilateral dialogue we have already discussed with India such steps as endorsing the Proliferation Security Initiative Statement of Principles, bringing an early end to the production of fissile material for weapons, and harmonizing its control lists with those of the Australia Group and the Wassenaar Arrangement.

### U.S. Commitments Under the Joint Statement

On a reciprocal basis with India's commitments, the United States has committed to work to achieve full civil nuclear cooperation with India. In this context, President Bush told Prime Minister Singh that he would:

- Seek agreement from Congress to adjust U.S. laws and policies;
- Work with friends and allies to adjust international regimes to enable full civil nuclear energy cooperation and trade with India; and
- Consult with partners on India's participation in the fusion energy International Thermonuclear Experimental Reactor (ITER) consortium and the Generation IV International Forum, the work of which relates to advanced nuclear energy systems.

To implement effectively the steps under the Joint Statement, we will need the active support of Congress and that of our international partners. We expect – and have told the Indian government – that India's follow-through on its commitments is essential to success. We believe that the Government of India understands this completely and we expect them to begin taking concrete steps in the weeks ahead.

### International Responses to Date

Mr. Chairman, since the July statement, we have actively engaged with our international partners – both bilaterally and in such multilateral fora as the G-8 and the Nuclear Suppliers Group. I have met directly with my counterparts from many different countries. Secretary Rice and other senior U.S. officials discussed the initiative with states at the recent UN General Assembly and at IAEA General Conference meetings. Assistant Secretaries Stephen Rademaker and Christina Rocca both traveled to Vienna to make presentations to the NSG Consultative Group. And, of course, many of our embassies have been actively engaged on this front.

While some countries, such as Sweden, have expressed substantial doubts about the initiative for fear of inadvertent damage to the nuclear nonproliferation regime, others have expressed strong support. For example, the UK has “warmly welcome(d)” this initiative and indicated that on the basis of the Joint Statement it was “ready to discuss with our international partners the basis for cooperation in civil nuclear matters with India.” Similarly, France has underscored the “need for full international civilian nuclear cooperation with India.” The Director General of the IAEA has also welcomed India’s decision to place its civil nuclear facilities under safeguards and to sign and implement the Additional Protocol as “concrete and practical steps toward the universal application of IAEA safeguards.”

To date, many other countries have adopted a “wait-and-see” approach. Most recognize the need to come to terms with India and not to allow it to remain completely outside the international nonproliferation system. They welcome the nonproliferation steps India has committed to take in the context of the Joint Statement. At the same time, they have made clear that their ultimate support will depend on the scope and pace of India’s actions.

Some have understandably questioned how this complex initiative comports with the NPT and our efforts to combat WMD proliferation. Others have asked whether the provision of civil nuclear technology to India would be consistent with their obligations under the NPT not to contribute to India’s nuclear weapons program. Still others have asked why a cap on India’s production of fissile material for weapons was not part of the deal.

We have sought to clarify that the United States does not and will not support India’s nuclear weapons program. As it is for other states, this is a “red line” for us. We are obligated under the NPT not to assist India’s nuclear weapons program. Our initiative with India does not recognize India as a nuclear weapon State, and we will not seek to renegotiate the NPT, whether to change the Treaty definition of a nuclear weapon State or in any other way. We remain cognizant of, and will fully uphold, all of our obligations under the Nuclear Non-proliferation Treaty, and we remain committed in principle to universal NPT adherence.

But we also recognize that India is in a unique situation and has shown to be responsible in not proliferating its nuclear technologies and materials. With its decision to take the steps announced in the Joint Statement, India will

now take on new nonproliferation responsibilities that will strengthen global nonproliferation efforts that serve the fundamental purpose of the NPT.

India has informed us that it has no intention of relinquishing its nuclear weapons or of becoming a party to the NPT as a non-nuclear weapon State, the only way it could adhere under the current terms of the Treaty. Despite this, it is important to seize this opportunity to assist India in becoming a more constructive partner in our global nonproliferation efforts. Indian commitments to be undertaken in the context of the Joint Statement will align Delhi more closely with the nuclear nonproliferation regime than at any time previously. India has said it wants to be a partner and is willing to take important steps to this end. We should encourage such steps.

In this context, it is important to note that the NPT does not ban civil nuclear cooperation with safeguarded facilities in India, nor does it require full scope safeguards as a condition of supply. In fact, under the “grandfather” provision of the NSG Guidelines, Russia today is building two nuclear reactors in India.

The NPT does preclude any cooperation that would “in any way assist” India’s nuclear weapons program. For that reason, we have made clear that, under our proposal, supplier states will only be able to engage in cooperation with safeguarded facilities. Moreover, the more civil facilities India places under safeguards, the more confident we can be that any cooperative arrangements will not further any military purposes. We expect – and have indicated to the Government of India – that India’s separation of its civil and military nuclear infrastructure must be conducted in a credible and transparent manner, and be defensible from a nonproliferation standpoint. In other words, the separation and the resultant safeguards must contribute to our nonproliferation goals. Many of our international partners have similarly indicated that they view this as a necessary precondition, and will not be able to support civil nuclear cooperation with India otherwise. We believe that the Indian government understands this.

With respect to the cessation of fissile material production, we continue to encourage India, as well as Pakistan, to move in this direction as part of our strategic dialogues with both governments. But we think it would be unwise to hold up the nonproliferation gains that can be obtained from the civil nuclear cooperation initiative for an Indian fissile material cap. Moreover, in the context of the Joint Statement, we jointly committed to work toward the

completion of an effective Fissile Material Cut-Off Treaty. As we have indicated previously, the United States also stands willing to explore other intermediate options that also might serve this objective.

As India completes the significant actions that it has committed to undertake in the Joint Statement, we are convinced that the nonproliferation regime will emerge stronger. Separately, we will continue to encourage additional steps, such as India's acceptance of a fissile material production moratorium or cap, but we will not insist on it for the purposes of the civil nuclear cooperation initiative announced by the President and Prime Minister. Even absent such a cap, the initiative represents a net gain for nonproliferation.

### Key Challenges

Five key challenges face the successful achievement of Joint Statement implementation. These include: developing a meaningful civil/military separation; negotiating the appropriate safeguards arrangement; building support within the NSG; avoiding the temptation to renegotiate the deal; and securing domestic legal reform.

*Developing a meaningful civil/military separation:* We have indicated that the separation of civil and military facilities must be both credible and transparent, as well as defensible from a nonproliferation standpoint. We have engaged in initial discussions with the Government of India, and look forward to further discussion of a mutually acceptable approach. While India has not yet presented a formal separation plan, we are encouraged by Foreign Secretary Saran's public acknowledgements both that "it is legitimate for our partners to expect that such cooperation will not provide any advantage to our strategic programme," and that "it makes no sense for India to deliberately keep some of its civilian facilities out of its declaration for safeguards purposes, if it really is interested in obtaining international cooperation on as wide a scale as possible."

In our discussions to date, and in particular during Under Secretary Burns' recent talks in Delhi, we have discussed some straightforward principles. I will not enumerate them fully here since the negotiations remain ongoing, but would like to underscore just a couple of these. For example, to ensure that the United States and other potential suppliers can confidently supply to India and meet our obligations under the NPT, safeguards must be applied in perpetuity. Further, the separation plan must ensure – and the safeguards



must confirm – that cooperation does not “in any way assist” in the development or production of nuclear weapons. In this context, nuclear materials in the civil sector should not be transferred out of the civil sector.

*Negotiating the appropriate safeguards arrangement:* India’s voluntary commitment to allow IAEA safeguards on its civil facilities is both a substantial nonproliferation gain and a key enabler for nuclear energy cooperation. A critical bellwether of Indian intentions will be how it handles the separation and safeguarding of its civil nuclear infrastructure. In our discussions with key international partners, both in the NSG context and otherwise, many have expressed strong views that India’s separation plan be transparent and have noted the importance of IAEA safeguards being applied to its civil facilities.

In this context, several countries have argued that it is integral to maintaining the integrity of the global regime that India not be granted *de jure* or *de facto* status as a nuclear weapon State under the NPT. For this reason, many have indicated that a “voluntary offer” arrangement of the type in place in the five internationally-recognized nuclear weapon States would not be acceptable for India. We indicated at the recent G-8 and NSG meetings that we would not view a voluntary offer arrangement as defensible from a nonproliferation standpoint or consistent with the Joint Statement, and therefore do not believe that it would constitute an acceptable safeguards arrangement. Such a course of action would in all likelihood preclude NSG support. Conversely, should India put forward a credible and defensible plan, we anticipate that many states will become more steadfast in their support.

*Building support within the NSG:* At the recent NSG Consultative Group meeting in Vienna, the United States discussed the initiative with regime members. We stressed our desire that the NSG maintain its effectiveness, and emphasized that we do not intend to undercut this important nonproliferation policy tool. For this reason, the U.S. proposal neither seeks to alter the decisionmaking procedures of the NSG nor amend the current full-scope safeguards requirement in the NSG Guidelines. Rather, the United States proposes that the NSG take a policy decision to treat India as an exceptional case, given its energy needs, its nuclear nonproliferation record, and the nonproliferation commitments it has now undertaken. We do not advocate similar treatment for others outside the NPT regime.

In our view, once India makes demonstrable progress in implementing key Joint Statement commitments – with a credible, transparent, and defensible separation plan foremost on the list – we will be ready to engage with our NSG partners in developing a formal proposal to allow the shipment of Trigger List items and related technology to India. Obviously, the number of facilities and activities that India places under IAEA safeguards, and the method and speed with which it does so, will directly affect the degree to which we will be able to build support for full civil nuclear cooperation. We look forward to discussing this more fully with NSG members at the Consultative Group meeting in early 2006 and at the plenary session that follows.

*Avoiding the temptation to renegotiate the deal:* Some observers – both in the United States and abroad – have argued that the U.S.-India arrangement as negotiated by the President and the Prime Minister does not constitute a net gain for nonproliferation, or at least does not reflect the maximum gain we might in theory have achieved. According to this view, the United States, presumably the U.S. Congress, should condition U.S. nuclear cooperation under the Joint Statement on additional Indian steps, such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state. Based on our interactions with the Indian government, we believe that such additional conditions would likely be deal-breakers.

This is a case where the “perfect” is the enemy of the “good,” and we must resist the temptation to pile-on conditions that will prejudice our ability to realize the important and long-standing nonproliferation objectives embodied in the Joint Statement. We are better off with India undertaking the commitments it has now agreed to rather than allowing the *status quo* to prevail.

The Joint Statement reached by President Bush and Prime Minister Singh is good both for India and for the United States, and offers a net gain for global nonproliferation efforts. Rather than layer on additional conditions or seek to renegotiate the Joint Statement, it would be better to lock-in this deal and then seek to achieve further results in subsequent nonproliferation discussions. We believe that this is a sound arrangement that should be supported because the commitments India has made will, when implemented, bring it into closer alignment with international nuclear

nonproliferation standards and practices and, as such, strengthen the global nonproliferation regime.

*Securing domestic legal reform:* The President promised in the Joint Statement that the Administration would seek agreement from Congress to adjust U.S. laws and policies. We recognize that the pace and scope of civil nuclear cooperation requires close consultations between the Executive and Legislative Branches. In our own ongoing review, we have identified a number of options for modifying and/or waiving provisions of the Atomic Energy Act that currently prohibit the United States from engaging in such cooperation with India.

As Under Secretary Burns noted, we do not intend to ask Congress to take legislative action until the Indian government takes certain important steps. We welcome your partnership as we embark on this effort, and look forward to working with your Committee, together with your House counterparts, as we jointly consider the best way forward in the legislative area.

#### Bottom-Line: Advancing Nonproliferation

We must recognize that there is today no viable cookie-cutter approach to nonproliferation; we need tailored approaches that solve real-world problems. We need to be creative and adjust our approaches to take into account the conditions that exist, so that we can achieve our nonproliferation objectives. This has been a premise of Administration policy since the outset of President Bush's first term, in which he established non- and counterproliferation as top national security priorities. He put in place the first comprehensive strategy at the national level for combating this preeminent threat to our security, and he embarked on changing how we as a nation, and how the international community more broadly, design and expand our collective efforts to defeat this complex and dangerous challenge.

Indeed, recognizing that traditional nonproliferation measures were essential but no longer sufficient, the President has established new concepts and new capabilities for countering WMD proliferation by hostile states and terrorists.

- He sought increased national resources to prevent proliferation through Nunn-Lugar type nonproliferation assistance programs and,

through the G-8 Global Partnership, successfully enlarged the contributions from other countries to this essential task.

- He launched the Proliferation Security Initiative to disrupt the trade in proliferation-related materials. This initiative has achieved the support of more than seventy other countries who are working together to share information and develop operational capabilities to interdict shipments at sea, in the air, and on land.
- He initiated the effort resulting in the unanimous adoption of UN Security Council Resolution 1540, which requires all states to enact both legislation criminalizing proliferation activities under their jurisdiction and effective export controls to help protect the sensitive materials and technologies on their territories.

These efforts in effective multilateralism, coupled with the strengthening of our own counterproliferation capabilities, have produced concrete successes such as the unraveling of the A.Q. Khan network and the decision by Libya to abandon its nuclear, chemical and long-range missile programs.

Similarly, we must pursue approaches with respect to India that recognize the reality that it is a growing 21<sup>st</sup> century power, shares our democratic values, has substantial and growing energy needs, and has long possessed nuclear weapons outside the NPT. *Status quo* approaches have not acknowledged these pragmatic considerations, nor have they achieved the positive outcome of progressively integrating India into the international nuclear nonproliferation mainstream.

We have begun consultations with our international partners; have conducted a number of introductory discussions with you, your colleagues, and your staff; and look forward to working further with you on the steps necessary to realize the benefits of the July Joint Statement.

Thank you.