Preamble

1.1. The use of nuclear weapons in particular as well as other weapons of mass destruction constitutes the gravest threat to humanity and to peace and stability in the international system. Unlike the other two categories of weapons of mass destruction, biological and chemical weapons which have been outlawed by international treaties, nuclear weapons remain instruments for national and collective security, the possession of which on a selective basis has been sought to be legitimised through permanent extension of the Nuclear Non-proliferation Treaty (NPT) in May 1995. Nuclear weapon states have asserted that they will continue to rely on nuclear weapons with some of them adopting policies to use them even in a non-nuclear context. These developments amount to virtual abandonment of nuclear disarmament. This is a serious setback to the struggle of the international community to abolish weapons of mass destruction.

1.2. India's primary objective is to achieve economic, political, social, scientific and technological development within a peaceful and democratic framework. This requires an environment of durable peace and insurance against potential risks to peace and stability. It will be India's endeavour to proceed towards this overall objective in cooperation with the global democratic trends and to play a

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constructive role in advancing the international system toward a just, peaceful and equitable order.

1.3. Autonomy of decision making in the developmental process and in strategic matters is an inalienable democratic right of the Indian people. India will strenuously guard this right in a world where nuclear weapons for a select few are sought to be legitimised for an indefinite future, and where there is growing complexity and frequency in the use of force for political purposes.

1.4. India's security is an integral component of its development process. India continuously aims at promoting an ever-expanding area of peace and stability around it so that developmental priorities can be pursued without disruption.

1.5. However, the very existence of offensive doctrine pertaining to the first use of nuclear weapons and the insistence of some nuclear weapons states on the legitimacy of their use even against non-nuclear weapon countries constitute a threat to peace, stability and sovereignty of states.

1.6. This document outlines the broad principles for the development, deployment and employment of India's nuclear forces. Details of policy and strategy concerning force structures, deployment and employment of nuclear forces will flow from this framework and will be laid down separately and kept under constant review.

2. Objectives

2.1. In the absence of global nuclear disarmament India's strategic interests require effective, credible nuclear deterrence and adequate retaliatory capability should deterrence fail. This is consistent with the UN Charter, which sanctions the right of self-defence.
2.2. The requirements of deterrence should be carefully weighed in the design of Indian nuclear forces and in the strategy to provide for a level of capability consistent with maximum credibility, survivability, effectiveness, safety and security.

2.3. India shall pursue a doctrine of credible minimum nuclear deterrence. In this policy of "retaliation only", the survivability of our arsenal is critical. This is a dynamic concept related to the strategic environment, technological imperatives and the needs of national security. The actual size components, deployment and employment of nuclear forces will be decided in the light of these factors. India's peacetime posture aims at convincing any potential aggressor that:

(a) any threat of use of nuclear weapons against India shall invoke measures to counter the threat; and (b) any nuclear attack on India and its forces shall result in punitive retaliation with nuclear weapons to inflict damage unacceptable to the aggressor.

2.4. The fundamental purpose of Indian nuclear weapons is to deter the use and threat of use of nuclear weapons by any State or entity against India and its forces. India will not be the first to initiate a nuclear strike, but will respond with punitive retaliation should deterrence fail.

2.5. India will not resort to the use or threat of use of nuclear weapons against States which do not possess nuclear weapons, or are not aligned with nuclear weapon powers.

2.6. Deterrence requires that India maintain:

(a) Sufficient, survivable and operationally prepared nuclear forces,
(b) a robust command and control system,

(c) effective intelligence and early warning capabilities, and

(d) comprehensive planning and training for operations in line with the strategy, and

(e) the will to employ nuclear forces and weapons

2.7. Highly effective conventional military capabilities shall be maintained to raise the threshold of outbreak both of conventional military conflict as well as that of threat or use of nuclear weapons.

3. Nuclear Forces

3.1. India's nuclear forces will be effective, enduring, diverse, flexible, and responsive to the requirements in accordance with the concept of credible minimum deterrence. These forces will be based on a triad of aircraft, mobile land-based missiles and sea-based assets in keeping with the objectives outlined above. Survivability of the forces will be enhanced by a combination of multiple redundant systems, mobility, dispersion and deception.

3.2. The doctrine envisages assured capability to shift from peacetime deployment to fully employable forces in the shortest possible time, and the ability to retaliate effectively even in a case of significant degradation by hostile strikes.

4. Credibility and Survivability

The following principles are central to India's nuclear deterrent:
4.1. Credibility: Any adversary must know that India can and will retaliate with sufficient nuclear weapons to inflict destruction and punishment that the aggressor will find unacceptable if nuclear weapons are used against India and its forces.

4.2. Effectiveness: The efficacy of India's nuclear deterrent be maximised through synergy among all elements involving reliability, timeliness, accuracy and weight of the attack.

4.3 Survivability:

(i) India's nuclear forces and their command and control shall be organised for very high survivability against surprise attacks and for rapid punitive response. They shall be designed and deployed to ensure survival against a first strike and to endure repetitive attrition attempts with adequate retaliatory capabilities for a punishing strike which would be unacceptable to the aggressor.

(ii) Procedures for the continuity of nuclear command and control shall ensure a continuing capability to effectively employ nuclear weapons.

5. Command and Control

5.1. Nuclear weapons shall be tightly controlled and released for use at the highest political level. The authority to release nuclear weapons for use resides in the person of the Prime Minister of India, or the designated successor(s).

5.2. An effective and survivable command and control system with requisite flexibility and responsiveness shall be in place. An integrated operational plan, or a series of sequential plans, predicated on strategic objectives and a targetting policy shall form part of the system.
5.3. For effective employment the unity of command and control of nuclear forces including dual capable delivery systems shall be ensured.

5.4. The survivability of the nuclear arsenal and effective command, control, communications, computing, intelligence and information (C4I2) systems shall be assured.

5.5. The Indian defence forces shall be in a position to, execute operations in an NBC environment with minimal degradation.

5.6. Space based and other assets shall be created to provide early warning, communications, damage/detonation assessment.

6. Security and Safety

6.1. Security: Extraordinary precautions shall be taken to ensure that nuclear weapons, their manufacture, transportation and storage are fully guarded against possible theft, loss, sabotage, damage or unauthorised access or use.

6.2. Safety is an absolute requirement and tamper proof procedures and systems shall be instituted to ensure that unauthorised or inadvertent activation/use of nuclear weapons does not take place and risks of accident are avoided.

6.3. Disaster control: India shall develop an appropriate disaster control system capable of handling the unique requirements of potential incidents involving nuclear weapons and materials.

7. Research and Development

7.1. India should step up efforts in research and development to keep up with technological advances in this field.
7.2. While India is committed to maintain the deployment of a deterrent which is both minimum and credible, it will not accept any restraints on building its R&D capability.

8. Disarmament and Arms Control

8.1. Global, verifiable and non-discriminatory nuclear disarmament is a national security objective. India shall continue its efforts to achieve the goal of a nuclear weapon-free world at an early date.

8.2. Since no-first use of nuclear weapons is India's basic commitment, every effort shall be made to persuade other States possessing nuclear weapons to join an international treaty banning first use.

8.3. Having provided unqualified negative security assurances, India shall work for internationally binding unconditional negative security assurances by nuclear weapon states to non-nuclear weapon states.

8.4. Nuclear arms control measures shall be sought as part of national security policy to reduce potential threats and to protect our own capability and its effectiveness.

8.5. In view of the very high destructive potential of nuclear weapons, appropriate nuclear risk reduction and confidence building measures shall be sought, negotiated and instituted.
The Government of India and the Government of the United States of America, hereinafter referred to as the Parties, RECOGNIZING the significance of civilian nuclear energy for meeting growing global energy demands in a cleaner and more efficient manner; DESIRING to cooperate extensively in the full development and use of nuclear energy for peaceful purposes as a means of achieving energy security, on a stable, reliable and predictable basis; WISHING to develop such cooperation on the basis of mutual respect for sovereignty, non-interference in each other’s internal affairs, equality, mutual benefit, reciprocity and with due respect for each other’s nuclear programmes; DESIRING to establish the necessary legal framework and basis for cooperation concerning peaceful uses of nuclear energy; AFFIRMING that cooperation under this Agreement is between two States possessing advanced nuclear technology, both Parties having the same benefits and advantages, both committed to preventing WMD proliferation; NOTING the understandings expressed in the India - U.S. Joint Statement of July 18, 2005 to enable full civil nuclear energy cooperation with India covering aspects of the associated nuclear fuel cycle; 2 AFFIRMING their support for the objectives of the International Atomic Energy Agency (IAEA) and its safeguards system, as applicable to India and the United States of America, and its importance in

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ensuring that international cooperation in development and use of nuclear energy for peaceful purposes is carried out under arrangements that will not contribute to the proliferation of nuclear weapons or other nuclear explosive devices; NOTING their respective commitments to safety and security of peaceful uses of nuclear energy, to adequate physical protection of nuclear material and effective national export controls; MINDFUL that peaceful nuclear activities must be undertaken with a view to protecting the environment; MINDFUL of their shared commitment to preventing the proliferation of weapons of mass destruction; and DESIROUS of strengthening the strategic partnership between them; Have agreed on the following:

ARTICLE 1 – DEFINITIONS

For the purposes of this Agreement:

(A) “By-product material” means any radioactive material (except special fissionable material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special fissionable material. By-product material shall not be subject to safeguards or any other form of verification under this Agreement, unless it has been decided otherwise by prior mutual agreement in writing between the two Parties.

(B) “Component” means a component part of equipment, or other item so designated by agreement of the Parties.

(C) “Conversion” means any of the normal operations in the nuclear fuel cycle, preceding fuel fabrication and excluding enrichment, by which uranium is transformed from one chemical form to another – for example, from uranium hexafluoride (UF6) to uranium dioxide (UO2) or from uranium oxide to metal.

(D) “Decommissioning” means the actions taken at the end of a facility’s useful life to retire the facility from service in the manner that provides adequate protection for the health and safety of the decommissioning workers and the general public, and for the environment. These actions can range from closing down the facility and a minimal removal of nuclear material coupled with continuing
maintenance and surveillance, to a complete removal of residual radioactivity in excess of levels acceptable for unrestricted use of the facility and its site.

(E) “Dual-Use Item” means a nuclear related item which has a technical use in both nuclear and non-nuclear applications.

(F) “Equipment” means any equipment in nuclear operation including reactor, reactor pressure vessel, reactor fuel charging and discharging equipment, reactor control rods, reactor pressure tubes, reactor primary coolant pumps, zirconium tubing, equipment for fuel fabrication and any other item so designated by the Parties.

(G) “High enriched uranium” means uranium enriched to twenty percent or greater in the isotope 235.

(H) “Information” means any information that is not in the public domain and is transferred in any form pursuant to this Agreement and so designated and documented in hard copy or digital form by mutual agreement by the Parties that it shall be subject to this Agreement, but will cease to be information whenever the Party transferring the information or any third party legitimately releases it into the public domain.

(I) “Low enriched uranium” means uranium enriched to less than twenty percent in the isotope 235.

(J) “Major critical component” means any part or group of parts essential to the operation of a sensitive nuclear facility or heavy water production facility.

(K) “Non-nuclear material” means heavy water, or any other material suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of further fission, as may be jointly designated by the appropriate authorities of the Parties.

(L) “Nuclear material” means (1) source material and (2) special fissionable material. “Source material” means uranium containing the mixture of isotopes occurring in nature; uranium depleted in the isotope 235; thorium; any of the foregoing in the form of metal, alloy, chemical compound, or concentrate; any
other material containing one or more of the foregoing in such concentration as the Board of Governors of the IAEA shall from time to time determine; and such other materials as the Board of Governors of the IAEA may determine or as may be agreed by the appropriate authorities of both Parties.

“Special fissionable material” means plutonium, uranium-233, uranium enriched in the isotope 233 or 235, any substance containing one or more of the foregoing, and such other substances as the Board of Governors of the IAEA may determine or as may be agreed by the appropriate authorities of both Parties. “Special fissionable material” does not include “source material”. Any determination by the Board of Governors of the IAEA under Article XX of that Agency’s Statute or otherwise that amends the list of materials considered to be “source material” or “special fissionable material” shall only have effect under this Agreement when both Parties to this Agreement have informed each other in writing that they accept such amendment. 4

(M) “Peaceful purposes” include the use of information, nuclear material, equipment or components in such fields as research, power generation, medicine, agriculture and industry, but do not include use in, research on, or development of any nuclear explosive device or any other military purpose. Provision of power for a military base drawn from any power network, production of radioisotopes to be used for medical purposes in military environment for diagnostics, therapy and sterility assurance, and other similar purposes as may be mutually agreed by the Parties shall not be regarded as military purpose.

(N) “Person” means any individual or any entity subject to the territorial jurisdiction of either Party but does not include the Parties.

(O) “Reactor” means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilizing uranium, plutonium, or thorium or any combination thereof.
“Sensitive nuclear facility” means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, or fabrication of nuclear fuel containing plutonium.

“Sensitive nuclear technology” means any information that is not in the public domain and that is important to the design, construction, fabrication, operation, or maintenance of any sensitive nuclear facility, or other such information that may be so designated by agreement of the Parties.

ARTICLE 2 – SCOPE OF COOPERATION

1. The Parties shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this Agreement. Each Party shall implement this Agreement in accordance with its respective applicable treaties, national laws, regulations, and license requirements concerning the use of nuclear energy for peaceful purposes.

2. The purpose of the Agreement being to enable full civil nuclear energy cooperation between the Parties, the Parties may pursue cooperation in all relevant areas to include, but not limited to, the following:
   a. Advanced nuclear energy research and development in such areas as may be agreed between the Parties;
   b. Nuclear safety matters of mutual interest and competence, as set out in Article 3;
   c. Facilitation of exchange of scientists for visits, meetings, symposia and collaborative research;
   d. Full civil nuclear cooperation activities covering nuclear reactors and aspects of the associated nuclear fuel cycle including technology transfer on an industrial or commercial scale between the Parties or authorized persons;
   e. Development of a strategic reserve of nuclear fuel to guard against any disruption of supply over the lifetime of India’s reactors;
f. Advanced research and development in nuclear sciences including but not limited to biological research, medicine, agriculture and industry, environment and climate change;
g. Supply between the Parties, whether for use by or for the benefit of the Parties or third countries, of nuclear material;
h. Alteration in form or content of nuclear material as provided for in Article 6;
i. Supply between the Parties of equipment, whether for use by or for the benefit of the Parties or third countries;
j. Controlled thermonuclear fusion including in multilateral projects; and
k. Other areas of mutual interest as may be agreed by the Parties.

3. Transfer of nuclear material, non-nuclear material, equipment, components and information under this Agreement may be undertaken directly between the Parties or through authorized persons. Such transfers shall be subject to this Agreement and to such additional terms and conditions as may be agreed by the Parties. Nuclear material, nonnuclear material, equipment, components and information transferred from the territory of one Party to the territory of the other Party, whether directly or through a third country, will be regarded as having been transferred pursuant to this Agreement only upon confirmation, by the appropriate authority of the recipient Party to the appropriate authority of the supplier Party that such items both will be subject to the Agreement and have been received by the recipient Party.

4. The Parties affirm that the purpose of this Agreement is to provide for peaceful nuclear cooperation and not to affect the unsafeguarded nuclear activities of either Party.

Accordingly, nothing in this Agreement shall be interpreted as affecting the rights of the Parties to use for their own purposes nuclear material, non-nuclear material, equipment, components, information or technology produced, acquired or developed by them independent of any nuclear material, non-nuclear material,
equipment, components, information or technology transferred to them pursuant to this Agreement. This Agreement shall be implemented in a manner so as not to hinder or otherwise interfere with any other activities involving the use of nuclear material, non-nuclear material, equipment, components, information or technology and military nuclear facilities produced, acquired or developed by them independent of this Agreement for their own purposes.

ARTICLE 3 – TRANSFER OF INFORMATION

1. Information concerning the use of nuclear energy for peaceful purposes may be transferred between the Parties. Transfers of information may be accomplished through reports, data banks and computer programs and any other means mutually agreed to by the Parties. Fields that may be covered include, but shall not be limited to, the following: 6

a. Research, development, design, construction, operation, maintenance and use of reactors, reactor experiments, and decommissioning;

b. The use of nuclear material in physical, chemical, radiological and biological research, medicine, agriculture and industry;

c. Fuel cycle activities to meet future world-wide civil nuclear energy needs, including multilateral approaches to which they are parties for ensuring nuclear fuel supply and appropriate techniques for management of nuclear wastes;

d. Advanced research and development in nuclear science and technology;

e. Health, safety, and environmental considerations related to the foregoing;

f. Assessments of the role nuclear power may play in national energy plans;

g. Codes, regulations and standards for the nuclear industry;
h. Research on controlled thermonuclear fusion including bilateral activities and contributions toward multilateral projects such as the International Thermonuclear Experimental Reactor (ITER); and

i. Any other field mutually agreed to by the Parties.

2. Cooperation pursuant to this Article may include, but is not limited to, training, exchange of personnel, meetings, exchange of samples, materials and instruments for experimental purposes and a balanced participation in joint studies and projects.

3. This Agreement does not require the transfer of any information regarding matters outside the scope of this Agreement, or information that the Parties are not permitted under their respective treaties, national laws, or regulations to transfer.

4. Restricted Data, as defined by each Party, shall not be transferred under this Agreement.

ARTICLE 4 – NUCLEAR TRADE

1. The Parties shall facilitate nuclear trade between themselves in the mutual interests of their respective industry, utilities and consumers and also, where appropriate, trade between third countries and either Party of items obligated to the other Party. The Parties recognize that reliability of supplies is essential to ensure smooth and uninterrupted operation of nuclear facilities and that industry in both the Parties needs continuing reassurance that deliveries can be made on time in order to plan for the efficient operation of nuclear installations.

2. Authorizations, including export and import licenses as well as authorizations or consents to third parties, relating to trade, industrial operations or nuclear material movement should be consistent with the sound and efficient administration of this Agreement and should not be used to restrict trade. It is
further agreed that if the relevant authority of the concerned Party considers that an application cannot be processed within a two month period it shall immediately, upon request, provide reasoned information to the submitting Party. In the event of a refusal to authorize an application or a delay exceeding four months from the date of the first application the Party of the submitting persons or undertakings may call for urgent consultations under Article 13 of this Agreement, which shall take place at the earliest opportunity and in any case not later than 30 days after such a request.

ARTICLE 5 – TRANSFER OF NUCLEAR MATERIAL, NON-NUCLEAR MATERIAL, EQUIPMENT, COMPONENTS AND RELATED TECHNOLOGY

1. Nuclear material, non-nuclear material, equipment and components may be transferred for applications consistent with this Agreement. Any special fissionable material transferred under this Agreement shall be low enriched uranium, except as provided in paragraph 5.

2. Sensitive nuclear technology, heavy water production technology, sensitive nuclear facilities, heavy water production facilities and major critical components of such facilities may be transferred under this Agreement pursuant to an amendment to this Agreement. Transfers of dual-use items that could be used in enrichment, reprocessing or heavy water production facilities will be subject to the Parties’ respective applicable laws, regulations and license policies.

3. Natural or low enriched uranium may be transferred for use as fuel in reactor experiments and in reactors, for conversion or fabrication, or for such other purposes as may be agreed to by the Parties.

4. The quantity of nuclear material transferred under this Agreement shall be consistent with any of the following purposes: use in reactor experiments or the loading of reactors, the efficient and continuous conduct of such reactor experiments or operation of reactors for their lifetime, use as samples, standards,
detectors, and targets, and the accomplishment of other purposes as may be agreed by the Parties.

5. Small quantities of special fissionable material may be transferred for use as samples, standards, detectors, and targets, and for such other purposes as the Parties may agree.

6. (a) The United States has conveyed its commitment to the reliable supply of fuel to India. Consistent with the July 18, 2005, Joint Statement, the United States has also reaffirmed its assurance to create the necessary conditions for India to have assured and full access to fuel for its reactors. As part of its implementation of the July 18, 2005, Joint Statement the United States is committed to seeking agreement from the U.S. Congress to amend its domestic laws and to work with friends and allies to adjust the practices of the Nuclear Suppliers Group to create the necessary conditions for India to obtain full access to the international fuel market, including reliable, uninterrupted and continual access to fuel supplies from firms in several nations.

(b) To further guard against any disruption of fuel supplies, the United States is prepared to take the following additional steps: 8

(i) The United States is willing to incorporate assurances regarding fuel supply in the bilateral U.S.-India agreement on peaceful uses of nuclear energy under Section 123 of the U.S. Atomic Energy Act, which would be submitted to the U.S. Congress.

(ii) The United States will join India in seeking to negotiate with the IAEA an India-specific fuel supply agreement.

(iii) The United States will support an Indian effort to develop a strategic reserve of nuclear fuel to guard against any disruption of supply over the lifetime of India’s reactors.

(iv) If despite these arrangements, a disruption of fuel supplies to India occurs, the United States and India would jointly convene a
group of friendly supplier countries to include countries such as Russia, France and the United Kingdom to pursue such measures as would restore fuel supply to India.

(c) In light of the above understandings with the United States, an India specific safeguards agreement will be negotiated between India and the IAEA providing for safeguards to guard against withdrawal of safeguarded nuclear material from civilian use at any time as well as providing for corrective measures that India may take to ensure uninterrupted operation of its civilian nuclear reactors in the event of disruption of foreign fuel supplies. Taking this into account, India will place its civilian nuclear facilities under India-specific safeguards in perpetuity and negotiate an appropriate safeguards agreement to this end with the IAEA.

ARTICLE 6 – NUCLEAR FUEL CYCLE ACTIVITIES

In keeping with their commitment to full civil nuclear cooperation, both Parties, as they do with other states with advanced nuclear technology, may carry out the following nuclear fuel cycle activities:

i) Within the territorial jurisdiction of either Party, enrichment up to twenty percent in the isotope 235 of uranium transferred pursuant to this Agreement, as well as of uranium used in or produced through the use of equipment so transferred, may be carried out.

ii) Irradiation within the territorial jurisdiction of either Party of plutonium, uranium- 233, high enriched uranium and irradiated nuclear material transferred pursuant to this Agreement or used in or produced through the use of non-nuclear material, nuclear material or equipment so transferred may be carried out. 9

iii) With a view to implementing full civil nuclear cooperation as envisioned in the Joint Statement of the Parties of July 18, 2005, the Parties grant each other
consent to reprocess or otherwise alter in form or content nuclear material transferred pursuant to this Agreement and nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment so transferred. To bring these rights into effect, India will establish a new national reprocessing facility dedicated to reprocessing safeguarded nuclear material under IAEA safeguards and the Parties will agree on arrangements and procedures under which such reprocessing or other alteration in form or content will take place in this new facility. Consultations on arrangements and procedures will begin within six months of a request by either Party and will be concluded within one year. The Parties agree on the application of IAEA safeguards to all facilities concerned with the above activities. These arrangements and procedures shall include provisions with respect to physical protection standards set out in Article 8, storage standards set out in Article 7, and environmental protections set forth in Article 11 of this Agreement, and such other provisions as may be agreed by the Parties. Any special fissionable material that may be separated may only be utilized in national facilities under IAEA safeguards.

iv) Post-irradiation examination involving chemical dissolution or separation of irradiated nuclear material transferred pursuant to this Agreement or irradiated nuclear material used in or produced through the use of non-nuclear material, nuclear material or equipment so transferred may be carried out.

ARTICLE 7 – STORAGE AND RETRANSFERS

1. Plutonium and uranium 233 (except as either may be contained in irradiated fuel elements), and high enriched uranium, transferred pursuant to this Agreement or used in or produced through the use of material or equipment so transferred, may be stored in facilities that are at all times subject, as a minimum, to the levels of physical protection that are set out in IAEA document INFCIRC 225/REV 4 as it may be revised and accepted by the Parties. Each Party shall
record such facilities on a list, made available to the other Party. A Party's list shall be held confidential if that Party so requests. Either Party may make changes to its list by notifying the other Party in writing and receiving a written acknowledgement. Such acknowledgement shall be given no later than thirty days after the receipt of the notification and shall be limited to a statement that the notification has been received. If there are grounds to believe that the provisions of this sub-Article are not being fully complied with, immediate consultations may be called for. Following upon such consultations, each Party shall ensure by means of such consultations that necessary remedial measures are taken immediately. Such measures shall be sufficient to restore the levels of physical protection referred to above at the facility in question. However, if the Party on whose territory the nuclear material in question is stored determines that such measures are not feasible, it will shift the nuclear material to another appropriate, listed facility it identifies.

2. Nuclear material, non-nuclear material, equipment, components, and information transferred pursuant to this Agreement and any special fissionable material produced through the use of nuclear material, non-nuclear material or equipment so transferred shall not be transferred or re-transferred to unauthorized persons or, unless the Parties agree, beyond the recipient Party’s territorial jurisdiction.

ARTICLE 8 – PHYSICAL PROTECTION

1. Adequate physical protection shall be maintained with respect to nuclear material and equipment transferred pursuant to this Agreement and nuclear material used in or produced through the use of nuclear material, non-nuclear material or equipment so transferred.

2. To fulfill the requirement in paragraph 1, each Party shall apply measures in accordance with (i) levels of physical protection at least equivalent to the recommendations published in IAEA document INFCIRC/225/Rev.4 entitled
“The Physical Protection of Nuclear Material and Nuclear Facilities,” and in any subsequent revisions of that document agreed to by the Parties, and (ii) the provisions of the 1980 Convention on the Physical Protection of Nuclear Material and any amendments to the Convention that enter into force for both Parties.

3. The Parties will keep each other informed through diplomatic channels of those agencies or authorities having responsibility for ensuring that levels of physical protection for nuclear material in their territory or under their jurisdiction or control are adequately met and having responsibility for coordinating response and recovery operations in the event of unauthorized use or handling of material subject to this Article.

The Parties will also keep each other informed through diplomatic channels of the designated points of contact within their national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.

4. The provisions of this Article shall be implemented in such a manner as to avoid undue interference in the Parties’ peaceful nuclear activities and so as to be consistent with prudent management practices required for the safe and economic conduct of their peaceful nuclear programs.

ARTICLE 9 – PEACEFUL USE

Nuclear material, equipment and components transferred pursuant to this Agreement and nuclear material and by-product material used in or produced through the use of any nuclear material, equipment, and components so transferred shall not be used by the recipient Party for any nuclear explosive device, for research on or development of any nuclear explosive device or for any military purpose.

ARTICLE 10 – IAEA SAFEGUARDS

1. Safeguards will be maintained with respect to all nuclear materials and equipment transferred pursuant to this Agreement, and with respect to all special
fissionable material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating Party.

2. Taking into account Article 5.6 of this Agreement, India agrees that nuclear material and equipment transferred to India by the United States of America pursuant to this Agreement and any nuclear material used in or produced through the use of nuclear material, non-nuclear material, equipment or components so transferred shall be subject to safeguards in perpetuity in accordance with the India-specific Safeguards Agreement between India and the IAEA [identifying data] and an Additional Protocol, when in force.

3. Nuclear material and equipment transferred to the United States of America pursuant to this Agreement and any nuclear material used in or produced through the use of any nuclear material, non-nuclear material, equipment, or components so transferred shall be subject to the Agreement between the United States of America and the IAEA for the application of safeguards in the United States of America, done at Vienna November 18, 1977, which entered into force on December 9, 1980, and an Additional Protocol, when in force.

4. If the IAEA decides that the application of IAEA safeguards is no longer possible, the supplier and recipient should consult and agree on appropriate verification measures.

5. Each Party shall take such measures as are necessary to maintain and facilitate the application of IAEA safeguards in its respective territory provided for under this Article.

6. Each Party shall establish and maintain a system of accounting for and control of nuclear material transferred pursuant to this Agreement and nuclear material used in or produced through the use of any material, equipment, or components so transferred. The procedures applicable to India shall be those set forth in the India-specific Safeguards Agreement referred to in Paragraph 2 of this Article.
7. Upon the request of either Party, the other Party shall report or permit the IAEA to report to the requesting Party on the status of all inventories of material subject to this Agreement.

8. The provisions of this Article shall be implemented in such a manner as to avoid hampering, delay, or undue interference in the Parties’ peaceful nuclear activities and so as to be consistent with prudent management practices required for the safe and economic conduct of their peaceful nuclear programs.

ARTICLE 11 – ENVIRONMENTAL PROTECTION

The Parties shall cooperate in following the best practices for minimizing the impact on the environment from any radioactive, chemical or thermal contamination arising from peaceful nuclear activities under this Agreement and in related matters of health and safety.

ARTICLE 12 – IMPLEMENTATION OF THE AGREEMENT

1. This Agreement shall be implemented in a manner designed:
   a) to avoid hampering or delaying the nuclear activities in the territory of either Party;
   b) to avoid interference in such activities;
   c) to be consistent with prudent management practices required for the safe conduct of such activities; and
   d) to take full account of the long term requirements of the nuclear energy programs of the Parties.

2. The provisions of this Agreement shall not be used to:
   a) secure unfair commercial or industrial advantages or to restrict trade to the disadvantage of persons and undertakings of either Party or hamper their commercial or industrial interests, whether international or domestic;
b) interfere with the nuclear policy or programs for the promotion of the peaceful uses of nuclear energy including research and development; or
c) impede the free movement of nuclear material, non nuclear material and equipment supplied under this Agreement within the territory of the Parties.

3. When execution of an agreement or contract pursuant to this Agreement between Indian and United States organizations requires exchanges of experts, the Parties shall facilitate entry of the experts to their territories and their stay therein consistent with national laws, regulations and practices. When other cooperation pursuant to this Agreement requires visits of experts, the Parties shall facilitate entry of the experts to their territory and their stay therein consistent with national laws, regulations and practices.
ARTICLE 13 – CONSULTATIONS

1. The Parties undertake to consult at the request of either Party regarding the implementation of this Agreement and the development of further cooperation in the field of peaceful uses of nuclear energy on a stable, reliable and predictable basis. The Parties recognize that such consultations are between two States with advanced nuclear technology, which have agreed to assume the same responsibilities and practices and acquire the same benefits and advantages as other leading countries with advanced nuclear technology.

2. Each Party shall endeavor to avoid taking any action that adversely affects cooperation envisaged under Article 2 of this Agreement. If either Party at any time following the entry into force of this Agreement does not comply with the provisions of this Agreement, the Parties shall promptly hold consultations with a view to resolving the matter in a way that protects the legitimate interests of both Parties, it being understood that rights of either Party under Article 16.2 remain unaffected.

3. Consultations under this Article may be carried out by a Joint Committee specifically established for this purpose. A Joint Technical Working Group reporting to the Joint Committee will be set up to ensure the fulfillment of the requirements of the Administrative Arrangements referred to in Article 17.
ARTICLE 14 – TERMINATION AND CESSATION OF COOPERATION

1. Either Party shall have the right to terminate this Agreement prior to its expiration on one year’s written notice to the other Party. A Party giving notice of termination shall provide the reasons for seeking such termination. The Agreement shall terminate one year from the date of the written notice, unless the notice has been withdrawn by the providing Party in writing prior to the date of termination.

2. Before this Agreement is terminated pursuant to paragraph 1 of this Article, the Parties shall consider the relevant circumstances and promptly hold consultations, as provided in Article 13, to address the reasons cited by the Party seeking termination. The Party seeking termination has the right to cease further cooperation under this Agreement if it determines that a mutually acceptable resolution of outstanding issues has not been possible or cannot be achieved through consultations. The Parties agree to consider carefully the circumstances that may lead to termination or cessation of cooperation.

They further agree to take into account whether the circumstances that may lead to termination or cessation resulted from a Party’s serious concern about a changed security environment or as a response to similar actions by other States which could impact national security.

3. If a Party seeking termination cites a violation of this Agreement as the reason for notice for seeking termination, the Parties shall consider whether the action was caused inadvertently or otherwise and whether the violation could be considered as material. No violation may be considered as being material unless corresponding to the definition of material violation or breach in the Vienna Convention on the Law of Treaties. If a Party seeking termination cites a violation of an IAEA safeguards agreement as the reason for notice for seeking termination, a crucial factor will be whether the IAEA Board of Governors has made a finding of non-compliance.
4. Following the cessation of cooperation under this Agreement, either Party shall have the right to require the return by the other Party of any nuclear material, equipment, non-nuclear material or components transferred under this Agreement and any special fissionable material produced through their use. A notice by a Party that is invoking the right of return shall be delivered to the other Party on or before the date of termination of this Agreement. The notice shall contain a statement of the items subject to this Agreement as to which the Party is requesting return. Except as provided in provisions of Article 16.3, all other legal obligations pertaining to this Agreement shall cease to apply with respect to the nuclear items remaining on the territory of the Party concerned upon termination of this Agreement. 14

5. The two Parties recognize that exercising the right of return would have profound implications for their relations. If either Party seeks to exercise its right pursuant to paragraph 4 of this Article, it shall, prior to the removal from the territory or from the control of the other Party of any nuclear items mentioned in paragraph 4, undertake consultations with the other Party. Such consultations shall give special consideration to the importance of uninterrupted operation of nuclear reactors of the Party concerned with respect to the availability of nuclear energy for peaceful purposes as a means of achieving energy security. Both Parties shall take into account the potential negative consequences of such termination on the on-going contracts and projects initiated under this Agreement of significance for the respective nuclear programmes of either Party.

6. If either Party exercises its right of return pursuant to paragraph 4 of this Article, it shall, prior to the removal from the territory or from the control of the other Party, compensate promptly that Party for the fair market value thereof and for the costs incurred as a consequence of such removal. If the return of nuclear items is required, the Parties shall agree on methods and arrangements for the return of the items, the
relevant quantity of the items to be returned, and the amount of compensation that would have to be paid by the Party exercising the right to the other Party.

7. Prior to return of nuclear items, the Parties shall satisfy themselves that full safety, radiological and physical protection measures have been ensured in accordance with their existing national regulations and that the transfers pose no unreasonable risk to either Party, countries through which the nuclear items may transit and to the global environment and are in accordance with existing international regulations.

8. The Party seeking the return of nuclear items shall ensure that the timing, methods and arrangements for return of nuclear items are in accordance with paragraphs 5, 6 and 7. Accordingly, the consultations between the Parties shall address mutual commitments as contained in Article 5.6. It is not the purpose of the provisions of this Article regarding cessation of cooperation and right of return to derogate from the rights of the Parties under Article 5.6.

9. The arrangements and procedures concluded pursuant to Article 6(iii) shall be subject to suspension by either Party in exceptional circumstances, as defined by the Parties, after consultations have been held between the Parties aimed at reaching mutually acceptable resolution of outstanding issues, while taking into account the effects of such suspension on other aspects of cooperation under this Agreement.

ARTICLE 15 – SETTLEMENT OF DISPUTES

Any dispute concerning the interpretation or implementation of the provisions of this Agreement shall be promptly negotiated by the Parties with a view to resolving that dispute.

ARTICLE 16 – ENTRY INTO FORCE AND DURATION 15
1. This Agreement shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that they have completed all applicable requirements for its entry into force.

2. This Agreement shall remain in force for a period of 40 years. It shall continue in force thereafter for additional periods of 10 years each. Each Party may, by giving 6 months written notice to the other Party, terminate this Agreement at the end of the initial 40 year period or at the end of any subsequent 10 year period.

3. Notwithstanding the termination or expiration of this Agreement or withdrawal of a Party from this Agreement, Articles 5.6(c), 6, 7, 8, 9, 10 and 15 shall continue in effect so long as any nuclear material, non-nuclear material, by-product material, equipment or components subject to these articles remains in the territory of the Party concerned or under its jurisdiction or control anywhere, or until such time as the Parties agree that such nuclear material is no longer usable for any nuclear activity relevant from the point of view of safeguards.

4. This Agreement shall be implemented in good faith and in accordance with the principles of international law.

5. The Parties may consult, at the request of either Party, on possible amendments to this Agreement. This Agreement may be amended if the Parties so agree. Any amendment shall enter into force on the date on which the Parties exchange diplomatic notes informing each other that their respective internal legal procedures necessary for the entry into force have been completed.

ARTICLE 17 – ADMINISTRATIVE ARRANGEMENT

1. The appropriate authorities of the Parties shall establish an Administrative Arrangement in order to provide for the effective implementation of the provisions of this Agreement.
2. The principles of fungibility and equivalence shall apply to nuclear material and non-nuclear material subject to this Agreement. Detailed provisions for applying these principles shall be set forth in the Administrative Arrangement.

3. The Administrative Arrangement established pursuant to this Article may be amended by agreement of the appropriate authorities of the Parties.

* * *
INDO - US JOINT STATEMENT

The following is the text of Indo-US Joint Statement issued after the delegation-level meeting between the Prime Minister, Dr. Manmohan Singh and the US President Mr. George W. Bush, in Washington DC on July 18, 2005.

"Prime Minister Manmohan Singh and President Bush today declare their resolve to transform the relationship between their countries and establish a global partnership. As leaders of nations committed to the values of human freedom, democracy and rule of law, the new relationship between India and the United States will promote stability, democracy, prosperity and peace throughout the world. It will enhance our ability to work together to provide global leadership in areas of mutual concern and interest.

Building on their common values and interests, the two leaders resolve:

· To create an international environment conducive to promotion of democratic values, and to strengthen democratic practices in societies which wish to become more open and pluralistic.

· To combat terrorism relentlessly. They applaud the active and vigorous counterterrorism cooperation between the two countries and support more international efforts in this direction. Terrorism is a global scourge and the one we will fight everywhere. The two leaders strongly affirm their commitment to the conclusion by September of a UN comprehensive convention against international terrorism.

http://www.hindu.com/thehindu/nic/indousjoint.htm
The Prime Minister's visit coincides with the completion of the Next Steps in Strategic Partnership (NSSP) initiative, launched in January 2004. The two leaders agree that this provides the basis for expanding bilateral activities and commerce in space, civil nuclear energy and dual-use technology.

Drawing on their mutual vision for the U.S.-India relationship, and our joint objectives as strong long-standing democracies, the two leaders agree on the following:

FOR THE ECONOMY

· Revitalize the U.S.-India Economic Dialogue and launch a CEO Forum to harness private sector energy and ideas to deepen the bilateral economic relationship.

· Support and accelerate economic growth in both countries through greater trade, investment, and technology collaboration.

· Promote modernization of India's infrastructure as a prerequisite for the continued growth of the Indian economy. As India enhances its investment climate, opportunities for investment will increase.

· Launch a U.S.-India Knowledge Initiative on Agriculture focused on promoting teaching, research, service and commercial linkages.

FOR ENERGY AND THE ENVIRONMENT

· Strengthen energy security and promote the development of stable and efficient energy markets in India with a view to ensuring adequate, affordable energy supplies and conscious of the need for sustainable development. These issues will be addressed through the U.S.-India Energy Dialogue.

· Agree on the need to promote the imperatives of development and safeguarding the environment, commit to
developing and deploying cleaner, more efficient, affordable, and diversified energy technologies.

FOR DEMOCRACY AND DEVELOPMENT

· Develop and support, through the new U.S.-India Global Democracy Initiative in countries that seek such assistance, institutions and resources that strengthen the foundations that make democracies credible and effective. India and the U.S. will work together to strengthen democratic practices and capacities and contribute to the new U.N. Democracy Fund.

· Commit to strengthen cooperation and combat HIV/AIDS at a global level through an initiative that mobilizes private sector and government resources, knowledge, and expertise.

FOR NON-PROLIFERATION AND SECURITY

· Express satisfaction at the New Framework for the U.S.-India Defense Relationship as a basis for future cooperation, including in the field of defense technology.

· Commit to play a leading role in international efforts to prevent the proliferation of Weapons of Mass Destruction. The U.S. welcomed the adoption by India of legislation on WMD (Prevention of Unlawful Activities Bill).

· Launch a new U.S.-India Disaster Relief Initiative that builds on the experience of the Tsunami Core Group, to strengthen cooperation to prepare for and conduct disaster relief operations.

FOR HIGH-TECHNOLOGY AND SPACE

· Sign a Science and Technology Framework Agreement, building on the U.S.-India High-Technology Cooperation Group (HTCG), to provide for joint research and training, and the establishment of public-private partnerships.
· Build closer ties in space exploration, satellite navigation and launch, and in the commercial space arena through mechanisms such as the U.S.-India Working Group on Civil Space Cooperation.

· Building on the strengthened non-proliferation commitments undertaken in the NSSP, to remove certain Indian organizations from the Department of Commerce's Entity List.

Recognizing the significance of civilian nuclear energy for meeting growing global energy demands in a cleaner and more efficient manner, the two leaders discussed India's plans to develop its civilian nuclear energy program.

President Bush conveyed his appreciation to the Prime Minister over India's strong commitment to preventing WMD proliferation and stated that as a responsible state with advanced nuclear technology, India should acquire the same benefits and advantages as other such states. The President told the Prime Minister that he will work to achieve full civil nuclear energy cooperation with India as it realizes its goals of promoting nuclear power and achieving energy security. The President would also seek agreement from Congress to adjust U.S. laws and policies, and the United States will work with friends and allies to adjust international regimes to enable full civil nuclear energy cooperation and trade with India, including but not limited to expeditious consideration of fuel supplies for safeguarded nuclear reactors at Tarapur. In the meantime, the United States will encourage its partners to also consider this request expeditiously. India has expressed its interest in ITER and a willingness to contribute. The United States will consult with its partners considering India's participation. The United States will consult with the other participants in the Generation IV International Forum with a view toward India's inclusion.

The Prime Minister conveyed that for his part, India would reciprocally agree that it would be ready to assume the same responsibilities and practices and acquire the same benefits and advantages as other leading countries with advanced nuclear technology, such as the United States. These responsibilities and practices consist of identifying and separating civilian and military nuclear facilities and programs in a phased manner and filing a declaration regarding its civilians facilities with the International Atomic Energy Agency (IAEA); taking a decision to place voluntarily its civilian nuclear facilities under IAEA safeguards; signing and adhering to an Additional
Protocol with respect to civilian nuclear facilities; continuing India's unilateral moratorium on nuclear testing; working with the United States for the conclusion of a multilateral Fissile Material Cut Off Treaty; refraining from transfer of enrichment and reprocessing technologies to states that do not have them and supporting international efforts to limit their spread; and ensuring that the necessary steps have been taken to secure nuclear materials and technology through comprehensive export control legislation and through harmonization and adherence to Missile Technology Control Regime (MTCR) and Nuclear Suppliers Group (NSG) guidelines.

The President welcomed the Prime Minister's assurance. The two leaders agreed to establish a working group to undertake on a phased basis in the months ahead the necessary actions mentioned above to fulfill these commitments. The President and Prime Minister also agreed that they would review this progress when the President visits India in 2006.

The two leaders also reiterated their commitment that their countries would play a leading role in international efforts to prevent the proliferation of weapons of mass destruction, including nuclear, chemical, biological and radiological weapons.

In light of this closer relationship, and the recognition of India's growing role in enhancing regional and global security, the Prime Minister and the President agree that international institutions must fully reflect changes in the global scenario that have taken place since 1945. The President reiterated his view that international institutions are going to have to adapt to reflect India's central and growing role. The two leaders state their expectations that India and the United States will strengthen their cooperation in global forums.

Prime Minister Manmohan Singh thanks President Bush for the warmth of his reception and the generosity of his hospitality. He extends an invitation to President Bush to visit India at his convenience and the President accepts that invitation."

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HENRY J. HYDE UNITED STATES-INDIA PEACEFUL ATOMIC ENERGY COOPERATION ACT OF 2006

TITLE I—UNITED STATES AND INDIA NUCLEAR COOPERATION

SEC. 101. SHORT TITLE.

This title may be cited as the “Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006”.

SEC. 102. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy;

(2) sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation, particularly its verification and compliance, is the keystone of United States nonproliferation policy;

http://chellaney.net/2007/10/05/official-text-of-the-hyde-act/
(3) the NPT has been a significant success in preventing the acquisition of nuclear weapons capabilities and maintaining a stable international security situation;

(4) countries that have never become a party to the NPT and remain outside that treaty’s legal regime pose a potential challenge to the achievement of the overall goals of global nonproliferation, because those countries have not undertaken the NPT obligation to prohibit the spread of nuclear weapons capabilities;

(5) it is in the interest of the United States to the fullest extent possible to ensure that those countries that are not States Party to the NPT are responsible in the disposition of any nuclear technology they develop;

(6) it is in the interest of the United States to enter into an agreement for nuclear cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) with a country that has never been a State Party to the NPT if—

(A) the country has demonstrated responsible behavior with respect to the nonproliferation of technology related to nuclear weapons and the means to deliver them;

(B) the country has a functioning and uninterrupted democratic system of government, has a foreign policy that is congruent to that of the United States, and is working with the United States on key foreign policy initiatives related to nonproliferation;

(C) such cooperation induces the country to promulgate and implement substantially improved protections against the proliferation of technology related to nuclear weapons and the means to deliver them, and to refrain from actions that would further the development of its nuclear weapons program; and
(D) such cooperation will induce the country to give greater political and material support to the achievement of United States global and regional nonproliferation objectives, especially with respect to dissuading, isolating, and, if necessary, sanctioning and containing states that sponsor terrorism and terrorist groups that are seeking to acquire a nuclear weapons capability or other weapons of mass destruction capability and the means to deliver such weapons;

(7) the United States should continue its policy of engagement, collaboration, and exchanges with and between India and Pakistan;

(8) strong bilateral relations with India are in the national interest of the United States;

(9) the United States and India share common democratic values and the potential for increasing and sustained economic engagement;

(10) commerce in civil nuclear energy with India by the United States and other countries has the potential to benefit the people of all countries;

(11) such commerce also represents a significant change in United States policy regarding commerce with countries that are not States Party to the NPT, which remains the foundation of the international nonproliferation regime;

(12) any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nuclear proliferation or regional arms races and maximizes India’s adherence to international non-proliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG); and
(13) the United States should not seek to facilitate or encourage the continuation of nuclear exports to India by any other party if such exports are terminated under United States law.

SEC. 103. STATEMENTS OF POLICY.

(a) IN GENERAL.—The following shall be the policies of the United States:

(1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.

(2) Encourage States Party to the NPT to interpret the right to “develop research, production and use of nuclear energy for peaceful purposes”, as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.

(3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those guidelines, and the rules and practices regarding NSG decisionmaking.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such
recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this title, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law.

(b) WITH RESPECT TO SOUTH ASIA.—The following shall be the policies of the United States with respect to South Asia:

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People’s Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India’s—

(A) full participation in the Proliferation Security Initiative;

(B) formal commitment to the Statement of Interdiction Principles of such Initiative;
(C) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;

(D) demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and

(E) ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India’s full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India’s civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160 (f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.
(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the requirements set forth in subsections a.(1) and a.(3) through a.(9) of such section.

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

SEC. 104. WAIVER AUTHORITY AND CONGRESSIONAL APPROVAL.

(a) IN GENERAL.—If the President makes the determination described in subsection (b), the President may—

(1) exempt a proposed agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection a.(2) of such section;

(2) waive the application of section 128 of the Atomic Energy Act of 1954 (42 U.S.C. 2157) with respect to exports to India; and

(3) waive with respect to India the application of—

(A) section 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of such Act (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

(b) DETERMINATION BY THE PRESIDENT.—The determination referred to in subsection (a) is a determination by the President that the following actions have occurred:
(1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.

(2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safe-guards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India’s civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India’s civil nuclear facilities.

(3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India’s civil nuclear program.

(4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.

(5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.

(6) India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through—

(A) the enactment and effective enforcement of comprehensive export control legislation and regulations;
(B) harmonization of its export control laws, regulations, policies, and practices with
the guidelines and practices of the Missile Technology Control Regime (MTCR) and
the NSG; and

(C) adherence to the MTCR and the NSG in accordance with the procedures of those
regimes for unilateral adherence.

(7) The NSG has decided by consensus to permit supply to India of nuclear items
covered by the guidelines of the NSG.

(c) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—The President shall submit to the appropriate congressional
committees the determination made pursuant to subsection (b), together with a report
detailing the basis for the determination.

(2) INFORMATION TO BE INCLUDED.—To the fullest extent available to the
United States, the report referred to in paragraph (1) shall include the following
information:

(A) A summary of the plan provided by India to the United States and the IAEA to
separate India’s civil and military nuclear facilities, materials, and programs, and the
declaration made by India to the IAEA identifying India’s civil facilities to be placed
under IAEA safeguards, including an analysis of the credibility of such plan and
declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the
IAEA requiring the application of safeguards in accordance with IAEA practices to
India’s civil nuclear facilities as declared in the plan described in subparagraph (A),
together with a copy of the agreement, and a description of the progress toward its
full implementation.
(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear-related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to fully and actively participate in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to
enrich uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction.

(H) A description of the decision of the NSG relating to nuclear cooperation with India, including whether nuclear cooperation by the United States under an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is consistent with the decision, practices, and policies of the NSG.

(I) A description of the scope of peaceful cooperation envisioned by the United States and India that will be implemented under the agreement for nuclear cooperation, including whether such cooperation will include the provision of enrichment and reprocessing technology.

(J) A description of the steps taken to ensure that proposed United States civil nuclear cooperation with India will not in any way assist India’s nuclear weapons program.

(d) RESTRICTIONS ON NUCLEAR TRANSFERS.—

(1) IN GENERAL.—Pursuant to the obligations of the United States under Article I of the NPT, nothing in this title constitutes authority to carry out any civil nuclear cooperation between the United States and a country that is not a nuclear-weapon State Party to the NPT that would in any way assist, encourage, or induce that country to manufacture or otherwise acquire nuclear weapons or nuclear explosive devices.

(2) NSG TRANSFER GUIDELINES.—Notwithstanding the entry into force of an agreement for co-operation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, no item subject to such agreement or subject to the transfer guidelines of the NSG, or to NSG
decisions related thereto, may be transferred to India if such transfer would be inconsistent with the transfer guidelines of the NSG in effect on the date of the transfer.

(3) TERMINATION OF NUCLEAR TRANSFERS TO INDIA.—

(A) IN GENERAL.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, and except as provided under subparagraph (B), exports of nuclear and nuclear-related material, equipment, or technology to India shall be terminated if there is any materially significant transfer by an Indian person of—

(i) nuclear or nuclear-related material, equipment, or technology that is not consistent with NSG guidelines or decisions, or

(ii) ballistic missiles or missile-related equipment or technology that is not consistent with MTCR guidelines,

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.

(B) EXCEPTION.—The President may choose not to terminate exports of nuclear and nuclear-related material, equipment, and technology to India under subparagraph (A) if—

(i) the transfer covered under such subparagraph was made without the knowledge of the Government of India;

(ii) at the time of the transfer, either the Government of India did not own, control, or direct the Indian person that made the transfer or the Indian person that made the
transfer is a natural person who acted without the knowledge of any entity described in subparagraph (B) or (C) of section 110(5); and

(iii) the President certifies to the appropriate congressional committees that the Government of India has taken or is taking appropriate judicial or other enforcement actions against the Indian person with respect to such transfer.

(4) EXPORTS, REEXPORTS, TRANSFERS, AND RETRANSFERS TO INDIA RELATED TO ENRICHMENT, REPROCESSING, AND HEAVY WATER PRODUCTION.—

(A) IN GENERAL.—

(i) NUCLEAR REGULATORY COMMISSION.—The Nuclear Regulatory Commission may only issue licenses for the export or reexport to India of any equipment, components, or materials related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water if the requirements of subparagraph (B) are met.

(ii) SECRETARY OF ENERGY.—The Secretary of Energy may only issue authorizations for the transfer or retransfer to India of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water (including under the terms of a subsequent arrangement under section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160)) if the requirements of subparagraph (B) are met.

(B) REQUIREMENTS FOR APPROVALS.— Exports, exports, transfers, and retransfers referred to in subparagraph (A) may only be approved if—

(i) the end user—
(I) is a multinational facility participating in an IAEA-approved program to provide alternatives to national fuel cycle capabilities; or

(II) is a facility participating in, and the export, reexport, transfer, or retransfer is associated with, a bilateral or multinational program to develop a proliferation-resistant fuel cycle;

(ii) appropriate measures are in place at any facility referred to in clause (i) to ensure that no sensitive nuclear technology, as defined in section 4(5) of the Nuclear Nonproliferation Act of 1978 (22 U.S.C. 3203(5)), will be diverted to any person, site, facility, location, or program not under IAEA safeguards; and

(iii) the President determines that the export, reexport, transfer, or retransfer will not assist in the manufacture or acquisition of nuclear explosive devices or the production of fissile material for military purposes.

(5) NUCLEAR EXPORT ACCOUNTABILITY PROGRAM.—

(A) IN GENERAL.—The President shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment, and technology sold, leased, exported, or exported to India so as to ensure—

(i) full implementation of the protections required under section 123 a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (a)(1)); and

(ii) United States compliance with Article I of the NPT.

(B) MEASURES.—The measures taken pursuant to subparagraph (A) shall include the following:

(i) Obtaining and implementing assurances and conditions pursuant to the export licensing authorities of the Nuclear Regulatory Commission and the Department of
Commerce and the authorizing authorities of the Department of Energy, including, as appropriate, conditions regarding end-use monitoring.

(ii) A detailed system of reporting and accounting for technology transfers, including any retransfers in India, authorized by the Department of Energy pursuant to section 57 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)). Such system shall be capable of providing assurances that—

(I) the identified recipients of the nuclear technology are authorized to receive the nuclear technology;

(II) the nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities and will not be used for any military or nuclear explosive purpose; and

(III) the nuclear technology identified for transfer will not be retransferred without the prior consent of the United States, and facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

(iii) In the event the IAEA is unable to implement safeguards as required by an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), appropriate assurance that arrangements will be put in place expeditiously that are consistent with the requirements of section 123 a.(1) of such Act (42 U.S.C. 2153(a)(1)) regarding the maintenance of safeguards as set forth in the agreement regardless of whether the agreement is terminated or suspended for any reason.

(C) IMPLEMENTATION.—The measures described in subparagraph (B) shall be implemented to provide reasonable assurances that the recipient is complying with the relevant requirements, terms, and conditions of any licenses issued by the United
States regarding such exports, including those relating to the use, retransfer, safe handling, secure transit, and storage of such exports.

(e) JOINT RESOLUTION OF APPROVAL REQUIREMENT.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) is amended in the second proviso by inserting after ‘‘that subsection’’ the following: ‘‘, or an agreement exempted pursuant to section 104(a)(1) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006,’’.

(f) SUNSET.—The authority provided under sub-section (a)(1) to exempt an agreement shall terminate upon the enactment of a joint resolution under section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) approving such an agreement.

(g) REPORTING TO CONGRESS.—

(1) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—The President shall keep the appropriate congressional committees fully and currently informed of the facts and implications of any significant nuclear activities of India, including—

(A) any material noncompliance on the part of the Government of India with—

(i) the nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India;

(ii) the separation plan presented in the national parliament of India on March 7, 2006, and in greater detail on May 11, 2006;

(iii) a safeguards agreement between the Government of India and the IAEA;

(iv) an Additional Protocol between the Government of India and the IAEA;
(v) an agreement for cooperation between the Government of India and the United States Government arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) or any sub-sequent arrangement under section 131 of such Act (42 U.S.C. 2160);

(vi) the terms and conditions of any approved licenses regarding the export or reexport of nuclear material or dual-use material, equipment, or technology; and

(vii) United States laws and regulations regarding such licenses;

(B) the construction of a nuclear facility in India after the date of the enactment of this title;

(C) significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced; and

(D) changes in the purpose or operational status of any unsafeguarded nuclear fuel cycle activities in India.

(2) IMPLEMENTATION AND COMPLIANCE REPORT.—Not later than 180 days after the date on which an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) enters into force, and annually thereafter, the President shall submit to the appropriate congressional committees a report including—

(A) a description of any additional nuclear facilities and nuclear materials that the Government of India has placed or intends to place under IAEA safeguards;

(B) a comprehensive listing of—
(i) all licenses that have been approved by the Nuclear Regulatory Commission and the Secretary of Energy for exports and reexports to India under parts 110 and 810 of title 10, Code of Federal Regulations;

(ii) any licenses approved by the Department of Commerce for the export or reexport to India of commodities, related technology, and software which are controlled for nuclear nonproliferation reasons on the Nuclear Referral List of the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulation, or any successor regulation;

(iii) any other United States authorizations for the export or reexport to India of nuclear materials and equipment; and

(iv) with respect to each such license or other form of authorization described in clauses (i), (ii), and (iii)—

(I) the number or other identifying information of each license or authorization;

(II) the name or names of the authorized end user or end users;

(III) the name of the site, facility, or location in India to which the export or reexport was made;

(IV) the terms and conditions included on such licenses and authorizations;

(V) any post-shipment verification procedures that will be applied to such exports or reexports; and

(VI) the term of validity of each such license or authorization;

(C) a description of any significant nuclear commerce between India and other countries, including any such trade that—
(i) is not consistent with applicable guidelines or decisions of the NSG; or

(ii) would not meet the standards applied to exports or reexports of such material, equipment, or technology of United States origin;

(D) either—

(i) an assessment that India is in full compliance with the commitments and obligations contained in the agreements and other documents referenced in clauses (i) through (vi) of paragraph (1)(A); or

(ii) an identification and analysis of all compliance issues arising with regard to the adherence by India to its commitments and obligations, including—

(I) the measures the United States Government has taken to remedy or otherwise respond to such compliance issues;

(II) the responses of the Government of India to such measures;

(III) the measures the United States Government plans to take to this end in the coming year; and

(IV) an assessment of the implications of any continued noncompliance, including whether nuclear commerce with India remains in the national security interest of the United States;

(E)(i) an assessment of whether India is fully and actively participating in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich uranium or reprocess nuclear fuel), and the means to deliver weapons of mass destruction, including a description of the specific measures that India has taken in this regard; and
(ii) if India is not assessed to be fully and actively participating in such efforts, a description of—

(I) the measures the United States Government has taken to secure India’s full and active participation in such efforts;

(II) the responses of the Government of India to such measures; and

(III) the measures the United States Government plans to take in the coming year to secure India’s full and active participation;

(F) an analysis of whether United States civil nuclear cooperation with India is in any way assisting India’s nuclear weapons program, including through—

(i) the use of any United States equipment, technology, or nuclear material by India in an unsafeguarded nuclear facility or nuclear-weapons related complex;

(ii) the replication and subsequent use of any United States technology by India in an unsafeguarded nuclear facility or unsafeguarded nuclear weapons-related complex, or for any activity related to the research, development, testing, or manufacture of nuclear explosive devices; and

(iii) the provision of nuclear fuel in such a manner as to facilitate the increased production by India of highly enriched uranium or plutonium in unsafeguarded nuclear facilities;

(G) a detailed description of—

(i) United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, limiting, and reducing their fissile material stock-piles,
including stockpiles for military purposes, pending creation of a worldwide fissile material cut-off regime, including the institution of a Fissile Material Cut-off Treaty;

(ii) the responses of India and Pakistan to such efforts; and

(iii) assistance that the United States is providing, or would be able to provide, to India and Pakistan to promote the objectives in clause (i), consistent with its obligations under international law and existing agreements;

(H) an estimate of—

(i) the amount of uranium mined and milled in India during the previous year;

(ii) the amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and

(iii) the rate of production in India of—

(I) fissile material for nuclear explosive devices; and

(II) nuclear explosive devices;

(I) an estimate of the amount of electricity India’s nuclear reactors produced for civil purposes during the previous year and the proportion of such production that can be attributed to India’s declared civil reactors;

(J) an analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices;

(K) a detailed description of efforts and progress made toward the achievement of India’s—

(i) full participation in the Proliferation Security Initiative;
(ii) formal commitment to the Statement of Interdiction Principles of such Initiative;

(iii) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Controls List of the Wassenaar Arrangement; and

(iv) effective implementation of the decision described in clause (iii); and

(L) the disposal during the previous year of spent nuclear fuel from India’s civilian nuclear program, and any plans or activities relating to future disposal of such spent nuclear fuel.

(3) SUBMITTAL WITH OTHER ANNUAL REPORTS.—

(A) REPORT ON PROLIFERATION PREVENTION.—Each annual report submitted under paragraph (2) after the initial report may be submitted together with the annual report on proliferation prevention required under section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)).

(B) REPORT ON PROGRESS TOWARD RE-GIONAL NONPROLIFERATION.—The information required to be submitted under paragraph (2)(F) after the initial report may be submitted together with the annual report on progress to-ward regional nonproliferation required under section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c)).

(4) FORM.—Each report submitted under this subsection shall be submitted in unclassified form, but may contain a classified annex.

SEC. 105. UNITED STATES COMPLIANCE WITH ITS NUCLEAR NONPROLIFERATION TREATY OBLIGATIONS.
Nothing in this title constitutes authority for any action in violation of an obligation of the United States under the NPT.

SEC. 106. INOPERABILITY OF DETERMINATION AND WAIVERS.

A determination and any waiver under section 104 shall cease to be effective if the President determines that India has detonated a nuclear explosive device after the date of the enactment of this title.

SEC. 107. MTCR ADHERENT STATUS.

Congress finds that India is not an MTCR adherent for the purposes of section 73 of the Arms Export Control Act (22 U.S.C. 2797b).

SEC. 108. TECHNICAL AMENDMENT.

Section 1112(c)(4) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113 and contained in appendix G of that Act; 113 Stat. 1501A–486)) is amended—

(1) in subparagraph (B), by striking “and” after the semicolon at the end;

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) so much of the reports required under section 104 of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 as relates to verification or compliance matters; and’’.
SEC. 109. UNITED STATES-INDIA SCIENTIFIC COOPERATIVE NUCLEAR NONPROLIFERATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy, acting through the Administrator of the National Nuclear Security Administration, is authorized to establish a cooperative nuclear nonproliferation program to pursue jointly with scientists from the United States and India a program to further common nuclear nonproliferation goals, including scientific research and development efforts, with an emphasis on nuclear safeguards (in this section referred to as “the program”).

(b) CONSULTATION.—The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) NATIONAL ACADEMIES RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall enter into an agreement with the National Academies to develop recommendations for the implementation of the program.

(2) RECOMMENDATIONS.—The agreement entered into under paragraph (1) shall provide for the preparation by qualified individuals with relevant expertise and knowledge and the communication to the Secretary of Energy each fiscal year of—

(A) recommendations for research and related programs designed to overcome existing technological barriers to nuclear nonproliferation; and

(B) an assessment of whether activities and programs funded under this section are achieving the goals of the activities and programs.

(3) PUBLIC AVAILABILITY.—The recommendations and assessments prepared under this subsection shall be made publicly available.
(d) CONSISTENCY WITH NUCLEAR NON-PROLIFERATION TREATY.—All United States activities related to the program shall be consistent with United States obligations under the Nuclear Non-Proliferation Treaty.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.

SEC. 110. DEFINITIONS.

In this title:

(1) The term “Additional Protocol” means a protocol additional to a safeguards agreement with the IAEA, as negotiated between a country and the IAEA based on a Model Additional Protocol as set forth in IAEA information circular (INFCIRC) 540.

(2) The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) The term “dual-use material, equipment, or technology” means material, equipment, or technology that may be used in nuclear or nonnuclear applications.

(4) The term “IAEA safeguards” has the meaning given the term in section 830(3) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(3)).

(5) The term “Indian person” means—

(A) a natural person that is a citizen of India or is subject to the jurisdiction of the Government of India;
(B) a corporation, business association, partnership, society, trust, or any other non-
governmental entity, organization, or group, that is organized under the laws of India or has its principal place of business in India; and

(C) any Indian governmental entity, including any governmental entity operating as a business enterprise.

(6) The terms “Missile Technology Control Regime”, “MTCR”, and “MTCR adherent” have the meanings given the terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(7) The term “nuclear materials and equipment” means source material, special nuclear material, production and utilization facilities and any components thereof, and any other items or materials that are determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)).


(9) The terms “Nuclear Suppliers Group” and “NSG” refer to a group, which met initially in 1975 and has met at least annually since 1992, of Participating Governments that have promulgated and agreed to adhere to Guidelines for Nuclear Transfers (currently IAEA INFCIRC/254/Rev.8/Part 1) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/ Rev.7/Part 2).

(10) The terms “nuclear weapon” and “nuclear explosive device” mean any device designed to produce an instantaneous release of an amount of nuclear energy from
special nuclear material that is greater than the amount of energy that would be released from the detonation of one point of trinitrotoluene (TNT).

(11) The term “process” includes the term “reprocess”.

(12) The terms “reprocessing” and “reprocess” refer to the separation of irradiated nuclear materials and fission products from spent nuclear fuel.

(13) The term “sensitive nuclear technology” means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term “source material” has the meaning given the term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(15) The term “special nuclear material” has the meaning given the term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

(16) The term “unsafe guarded nuclear fuel-cycle activity” means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) any existing or future reactor, critical facility, conversion plant, fabrication plant, re-processing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced there from.