

O – Bilateral Measures

Synopsis of the Strategic Arms Reduction Treaty (START) 1 Including Termination Clauses.

[Moscow, July 31, 1991]

Treaty Between the United States Of America and the Union Of Soviet Socialist Republics on the Reduction and Limitation Of Strategic Offensive Arms

Conscious that nuclear war would have devastating consequences for all humanity, that it cannot be won and must never be fought,

Convinced that the measures for the reduction and limitation of strategic offensive arms and the other obligations set forth in this Treaty will help to reduce the risk of outbreak of nuclear war and strengthen international peace and security,

Recognizing that the interests of the Parties and the interests of international security require the strengthening of strategic stability,

Mindful of their undertakings with regard to strategic offensive arms in Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968; Article XI of the Treaty on the Limitation of Anti-Ballistic Missile Systems of May 26, 1972; and the Washington Summit Joint Statement of June 1, 1990, [ABA]

Have agreed as follows:

ARTICLE I

Each Party shall reduce and limit its strategic offensive arms in accordance with the provisions of this Treaty, and shall carry out the other obligations set forth in this Treaty and its Annexes, Protocols, and Memorandum of Understanding.

ARTICLE II

1. Each Party shall reduce and limit its ICBMs and ICBM launchers, SLBMs and SLBM launchers, heavy bombers, ICBM warheads, SLBM warheads, and heavy bomber armaments, so that seven years after entry into force of this Treaty and thereafter, the aggregate numbers, as counted in accordance with Article III of this Treaty, do not exceed:

(a) 1600, for deployed ICBMs and their associated launchers, deployed SLBMs and their associated launchers, and deployed heavy bombers, including 154 for deployed heavy ICBMs and their associated launchers; [RF MOU, Section II] [US MOU, Section II] [Agreed State 33]

(b) 6000, for warheads attributed to deployed ICBMs, deployed SLBMs, and deployed heavy bombers, [RF MOU, Section II] [US MOU, Section II] including: [Agreed State 33] [START II, Art. I.3]

(i) 4900, for warheads attributed to deployed ICBMs and deployed SLBMs; [RF MOU, Section II] [US MOU, Section II] [START II, Art. I.4] [Agreed State 33]

(ii) 1100, for warheads attributed to deployed ICBMs on mobile launchers of ICBMs; [RF MOU, Section II]

(iii) 1540, for warheads attributed to deployed heavy ICBMs. [phased heavy reductions [RF MOU, Section II] ABA

2. Each Party shall implement the reductions pursuant to paragraph 1 of this Article in three phases, so that its strategic offensive arms do not exceed:

(a) by the end of the first phase, that is, no later than 36 months after entry into force of this Treaty, and thereafter, the following aggregate numbers:

(i) 2100, for deployed ICBMs and their associated launchers, deployed SLBMs and their associated launchers, and deployed heavy bombers;

(ii) 9150, for warheads attributed to deployed ICBMs, deployed SLBMs, and deployed heavy bombers;

(iii) 8050, warheads attributed to deployed ICBMs and deployed SLBMs;

(b) by the end of the second phase, that is, no later than 60 months after entry into force of this Treaty, and thereafter, the following aggregate numbers:

(i) 1900, for deployed ICBMs and their associated launchers, deployed SLBMs and their associated launchers, and deployed heavy bombers;

(ii) 7950, for warheads attributed to deployed ICBMs, deployed SLBMs, and deployed heavy bombers;

(iii) 6750, warheads attributed to deployed ICBMs and deployed SLBMs;

(c) by the end of the third phase, that is, no later than 84 months after entry into force of this Treaty: the aggregate numbers provided for in paragraph 1 of this Article .ABA

3. Each Party shall limit the aggregate throw-weight [RF MOU, Section II] [US MOU Section II] of its deployed ICBMs [RF MOU, Section I] [US MOU Section I] and deployed SLBMs [RF MOU, Section I] [US MOU Section I] so that seven years after entry into force of this Treaty and thereafter such aggregate throw-weight does not exceed 3600 metric tons. ABA [Throw-weight Limits/Provisions for Types of ICBMs and SLBMs]

4. For the purposes of counting warheads:

(a) The number of warheads attributed to an ICBM or SLBM of each existing type shall be the number specified in the Memorandum of Understanding [RF MOU, Section I] [US MOU, Section I] on the Establishment of the Data Base Relating to this Treaty, hereinafter referred to as the Memorandum of Understanding.

(b) The number of warheads that will be attributed to an ICBM or SLBM of a new type shall be the maximum number of reentry vehicles with which an ICBM or SLBM of that type has been flight-tested. The number of warheads that will be attributed to an ICBM or SLBM of a new type with a front section of an existing design with multiple reentry vehicles, or to an ICBM or SLBM of a new type with one reentry vehicle, shall be no less than the nearest integer that is smaller than the result of dividing 40 percent of the accountable throw-weight of the ICBM or SLBM by the weight of the lightest reentry vehicle flight-tested on an ICBM of SLBM of a new type.

(c) The number of reentry vehicles with which an ICBM or SLBM has been flight-tested shall be considered to be the sum of the number of reentry vehicles actually released during the flight test, plus the number of procedures for dispensing reentry vehicles performed during that same flight test when no reentry vehicle was released. A procedure for dispensing penetration aids shall not be considered to be a procedure for dispensing reentry vehicles, provided that the procedure for dispensing penetration aids differs from a procedure for dispensing reentry vehicles.

18. Each Party undertakes not to produce, test, or deploy:

(b) launchers of ballistic or cruise missiles for emplacement on or for tethering to the ocean floor, the seabed, or the beds of internal waters and inland waters, or for emplacement in or for tethering to the subsoil thereof, or mobile launchers of such missiles that move only in contact with the ocean floor, the seabed, or the beds of internal waters and inland waters, or missiles for such launchers. This obligation shall apply to all areas of the ocean floor and the seabed, including the seabed zone referred to in Articles I and II of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof of February 11, 1971;

(c) systems, including missiles, for placing nuclear weapons or any other kinds of weapons of mass destruction into Earth orbit or a fraction of an Earth orbit;

19. Each Party undertakes not to:

(a) flight-test with nuclear armaments an aircraft that is not an airplane, but that has a range of 8000 kilometers or more; equip such an aircraft for nuclear armaments; or deploy such an aircraft with nuclear armaments;

(b) flight-test with nuclear armaments an airplane that was not initially constructed as a bomber, but that has a range of 8000 kilometers or more, or an integrated planform area in excess of 310 square meters; equip such an airplane for nuclear armaments; or deploy such an airplane with nuclear armaments;

(c) flight-test with long-range nuclear ALCMs an aircraft that is not an airplane, or an airplane that was not initially constructed as a bomber; equip such an aircraft or such an airplane for long-range nuclear ALCMs; or deploy such an aircraft or such an airplane with long-range nuclear ALCMs.

ARTICLE VII

1. Conversion and elimination of strategic offensive arms, fixed structures for mobile launchers of ICBMs, and facilities shall be carried out pursuant to this Article and in accordance with procedures provided for in the Conversion or Elimination Protocol. Conversion and elimination shall be verified by national technical means of verification and by inspection as provided for in Articles IX and XI of this Treaty; in the Conversion or Elimination Protocol; and in the Protocol on Inspections and Continuous Monitoring Activities Relating to this Treaty, hereinafter referred to as the Inspection Protocol.

2. ICBMs for mobile launchers of ICBMs, ICBM launchers, SLBM launchers, heavy bombers, former heavy bombers, and support equipment shall be subject to the limitations provided for in this Treaty until they have been eliminated, or otherwise cease to be subject to the limitations provided for in this Treaty, in accordance with procedures provided for in the Conversion or Elimination Protocol. [Agreed State 11] [Agreed State 37] [Joint State Missile Production Technology]

3. ICBMs for silo launchers of ICBMs and SLBMs shall be subject to the limitations provided for in this Treaty until they have been eliminated by rendering them inoperable, precluding their use for their original purpose, using procedures at the discretion of the Party possessing the ICBMs or SLBMs.

ARTICLE VIII

1. A data base pertaining to the obligations under this Treaty is set forth in the Memorandum of Understanding, in which data with respect to items subject to the limitations provided for in this Treaty are listed according to categories of data. [MOU, Annex J] [Joint State Data Updates] [Agreed State 37]

2. In order to ensure the fulfillment of its obligations with respect to this Treaty, each Party shall notify the other Party of changes in data, as provided for in subparagraph 3(a) of this Article, and shall also provide other notifications required by paragraph 3 of this Article, in accordance with the procedures provided for in paragraphs 4, 5, and 6 of this Article, the Notification Protocol, and the Inspection Protocol.

3. Each Party shall provide to the other Party, in accordance with the Notification Protocol, and, for subparagraph (i) of this paragraph, in accordance with Section III of the Inspection Protocol: [Agreed State 37]

(a) notifications concerning data with respect to items subject to the limitations provided for in this Treaty, according to categories of data contained in the Memorandum of Understanding and other agreed categories of data; [Agreed State 21]

(b) notifications concerning movement of items subject to the limitations provided for in this Treaty;

(c) notifications concerning data on ICBM and SLBM throw-weight in connection with the Protocol on ICBM and SLBM Throw-weight [MOU, Section I] Relating to this Treaty, hereinafter referred to as the Throw-weight Protocol;

(d) notifications concerning conversion or elimination of items subject to the limitations provided for in this Treaty or elimination of facilities subject to this Treaty;

(e) notifications concerning cooperative measures to enhance the effectiveness of national technical means of verification;

(f) notifications concerning flight tests of ICBMs or SLBMs and notifications concerning telemetric information; [Launch Notification Agreement]

(g) notifications concerning strategic offensive arms of new types and new kinds; [Agreed State 2]

(h) notifications concerning changes in the content of information provided pursuant to this paragraph, including the rescheduling of activities;

(i) notifications concerning inspections and continuous monitoring activities; and

(j) notifications concerning operational dispersals.

4. Each Party shall use the Nuclear Risk Reduction Centers, which provide for continuous communication between the Parties, to provide and receive notifications in accordance with the Notification Protocol and the Inspection Protocol, unless otherwise provided for in this Treaty, and to acknowledge receipt of such notifications no later than one hour after receipt.

5. If a time is to be specified in a notification provided pursuant to this Article, that time shall be expressed in Greenwich Mean Time. If only a date is to be specified in a notification, that date shall be specified as the 24-hour period that corresponds to the date in local time, expressed in Greenwich Mean Time.

6. Except as otherwise provided in this Article, each Party shall have the right to release to the public all data current as of September 1, 1990, that are listed in the Memorandum of Understanding, as well as the photographs that are appended thereto. Geographic coordinates and site diagrams that are received pursuant to the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Exchange of Geographic Coordinates and Site Diagrams Relating to the Treaty of July 31, 1991, shall not be released to the public unless otherwise agreed. The Parties shall hold consultations on releasing to the public data and other information provided pursuant to this Article or received otherwise in fulfilling the obligations provided for in this Treaty. The provisions of this Article shall not affect the rights and obligations of the Parties with respect to the communication of such data and other information to those individuals who, because of their official responsibilities, require such data or other information to carry out activities related to the fulfillment of the obligations provided for in this Treaty. [Statements on Release to Public]

ARTICLE IX

1. For the purpose of ensuring verification of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use concealment measures that impede verification, by national technical means of verification, of compliance with the provisions of this Treaty. In this connection, the obligation not to use concealment measures includes the obligation not to use them at test ranges, including measures that result in the concealment of ICBMs, SLBMs, mobile launchers of ICBMs, or the association between ICBMs or SLBMs and their launchers during testing. The obligation not to use concealment measures shall not apply to cover or concealment practices at ICBM bases and deployment areas, or to the use of environmental shelters for strategic offensive arms.

4. To aid verification, each ICBM for mobile launchers of ICBMs shall have a unique identifier as provided for in the Inspection Protocol.

ARTICLE X

1. During each flight test of an ICBM or SLBM, the Party conducting the flight test shall make on-board technical measurements and shall broadcast all telemetric information obtained from such measurements. The Party conducting the flight test shall determine which technical parameters are to be measured during such flight test, as well as the methods of processing and transmitting telemetric information.

2. During each flight test of an ICBM or SLBM, the Party conducting the flight test undertakes not to engage in any activity that denies full access to telemetric information, including: [Statements on Encryption & Jamming]

(a) the use of encryption;

(b) the use of jamming;

(c) broadcasting telemetric information from an ICBM or SLBM using narrow directional beaming; and

(d) encapsulation of telemetric information, including the use of ejectable capsules or recoverable reentry vehicles..

3. During each flight test of an ICBM or SLBM, the Party conducting the flight test undertakes not to broadcast from a reentry vehicles. telemetric information that pertains to the functioning of the stages or the self-contained dispensing mechanism of the ICBM or SLBM.

4. After each flight test of an ICBM or SLBM, the Party conducting the flight test shall provide, in accordance with Section I of the Protocol on Telemetric Information Relating to the Treaty,

hereinafter referred to as the Telemetry Protocol, tapes that contain a recording of all telemetric information that is broadcast during the flight test.

After each flight test of an ICBM or SLBM, the Party conducting the flight test shall provide, in accordance with Section II of the Telemetry Protocol, data associated with the analysis of the telemetric information. [Agreed State 35]

6. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, each Party shall have the right to encapsulate and encrypt on-board technical measurements during no more than a total of eleven flight tests of ICBMs or SLBMs each year. Of these eleven flight tests each year, no more than four shall be flight tests of ICBMs or SLBMs of each type, any missile of which has been flight-tested with a self-contained dispensing mechanism. Such encapsulation shall be carried out in accordance with Section I and paragraph 1 of Section III of the Telemetry Protocol, and such encryption shall be carried out in accordance with paragraph 2 of Section III of the Telemetry Protocol. Encapsulation and encryption that are carried out on the same flight test of an ICBM or SLBM shall count as two flight tests against the quotas specified in this paragraph. [Agreed State 31]

ARTICLE XI

1. For the purpose of ensuring verification of compliance with the provisions of this Treaty, each Party shall have the right to conduct inspections and continuous monitoring activities and shall conduct exhibitions pursuant to this Article and the Inspection Protocol. Inspections, continuous monitoring activities, and exhibitions shall be conducted in accordance with the procedures provided for in the Inspection Protocol and the Conversion or Elimination Protocol. [item of inspection] [size criteria] [Agreed State 36]

2. Each Party shall have the right to conduct baseline data inspections at facilities to confirm the accuracy of data on the numbers and types of items specified for such facilities in the initial exchange of data provided in accordance with paragraph 1 of Section I of the Notification Protocol. [facility inspections at] [Agreed State 10]

3. Each Party shall have the right to conduct data update inspections at facilities to confirm the accuracy of data on the numbers and types of items specified for such facilities in the notifications and regular exchanges of updated data provided in accordance with paragraphs 2 and 3 of Section I of the Notification Protocol. [facility inspections at] [Agreed State 10]

4. Each Party shall have the right to conduct new facility inspections to confirm the accuracy of data on the numbers and types of items specified in the notifications of new facilities provided in accordance with paragraph 3 of Section I of the Notification Protocol. [facility inspections at]

5. Each Party shall have the right to conduct suspect-site inspections to confirm that covert assembly of ICBMs for mobile launchers of ICBMs or covert assembly of first stages of such ICBMs is not occurring. [facility inspections at] [RF MOU Annex I] [US MOU Annex I] [Joint State on Site Diagrams]

6. Each Party shall have the right to conduct reentry vehicle inspections of deployed ICBMs and SLBMs to confirm that such ballistic missiles contain no more reentry vehicles than the number of warheads attributed to them. [facility inspections at] [RF MOU Section I] [US MOU Section I]

7. Each Party shall have the right to conduct post-exercise dispersal inspections of deployed mobile launchers of ICBMs and their associated missiles to confirm that the number of mobile launchers of ICBMs and their associated missiles that are located at the inspected ICBM bases and those that have not returned to it after completion of the dispersal does not exceed the number specified for that ICBM base.

8. Each Party shall conduct or shall have the right to conduct conversion or elimination inspections to confirm the conversion or elimination of strategic offensive arms.

9. Each Party shall have the right to conduct close-out inspections to confirm that the elimination of facilities has been completed.

10. Each Party shall have the right to conduct formerly declared facility inspections to confirm that facilities, notification of the elimination of which has been provided in accordance with paragraph 3 of Section I of the Notification Protocol, are not being used for purposes inconsistent with this Treaty.

11. Each Party shall conduct technical characteristics exhibitions, and shall have the right during such exhibitions by the other Party to conduct inspections of an ICBM and an SLBM of each type, and each variant thereof, and of a mobile launcher of ICBMs and each version of such launcher for each type of ICBM for mobile launchers of ICBMs. The purpose of such exhibitions shall be to permit the inspecting Party to confirm that technical characteristics correspond to the data specified for these items. [RF MOU Annex F] [US MOU Annex F] [Agreed State 25] [Early Exhibitions Agreement] [Agreed State 28]

12. Each Party shall conduct distinguishability exhibitions for heavy bombers, former heavy bombers, and long-range nuclear ALCMs, and shall have the right during such exhibitions by the other Party to conduct inspections, of: [Agreed State 10]

14. Each Party shall have the right to conduct continuous monitoring activities at production facilities for ICBMs for mobile launchers of ICBMs to confirm the number of ICBMs for mobile launchers of ICBMs produced. [Agreed State 22] [facilities] [Site Surveys Letters]

ARTICLE XV

To promote the objectives and implementation of the provisions of this Treaty, the Parties hereby establish the Joint Compliance and Inspection Commission. The Parties agree that, if either Party so requests, they shall meet within the framework of the Joint Compliance and Inspection Commission to: [Lisbon Protocol]

(a) resolve questions relating to compliance with the obligations assumed;

(b) agree upon such additional measures as may be necessary to improve the viability and effectiveness of this Treaty; and

(c) resolve questions related to the application of relevant provisions of this Treaty to a new kind of strategic offensive arm, after notification has been provided in accordance with paragraph 16 of Section VII of the Notification Protocol.

ARTICLE XVI

To ensure the viability and effectiveness of this Treaty, each Party shall not assume any international obligations or undertakings that would conflict with its provisions. The Parties shall hold consultations in accordance with Article XV of this Treaty in order to resolve any ambiguities that may arise in this regard. The Parties [Lisbon Protocol] agree that this provision does not apply to any patterns of cooperation, including obligations, in the area of strategic offensive arms, existing at the time of signature of this Treaty, between a Party and a third State. [Agreed State 1] [Soviet State on Non-Circumvention & Patterns of Coop]

ARTICLE XVII

1. This Treaty, including its Annexes, Protocols, and Memorandum of Understanding, all of which form integral parts thereof, shall be subject to ratification in accordance with the constitutional procedures of each Party. This Treaty shall enter into force on the date of the exchange of instruments of ratification.

2. This Treaty shall remain in force for 15 years unless superseded earlier by a subsequent agreement on the reduction and limitation of strategic offensive arms. No later than one year before the expiration of the 15-year period, the Parties shall meet to consider whether this Treaty will be extended. If the Parties so decide, this Treaty will be extended for a period of five years unless it is superseded before the expiration of that period by a subsequent agreement on the reduction and limitation of strategic offensive arms. This Treaty shall be extended for successive five-year periods, if the Parties so decide, in accordance with the procedures governing the initial extension, and it shall remain in force for each agreed five-year period of extension unless it is superseded by a subsequent agreement on the reduction and limitation of strategic offensive arms.

3. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized

its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from this Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

ARTICLE XVIII

Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing entry into force of this Treaty.

ARTICLE XIX

This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on July 31, 1991, in two copies, each in the English and Russian languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

George Bush

President of the United States of America

FOR THE UNION OF SOVIET SOCIALIST REPUBLICS:

M. Gorbachev

President of the Union of Soviet Socialist Republics

Announcement of Withdrawal from the ABM Treaty

[Statement by the White House Press Secretary,
13 December 2001]

The circumstances affecting U.S. national security have changed fundamentally since the signing of the ABM Treaty in 1972. The attacks against the U.S. homeland on September 11 vividly demonstrate that the threats we face today are far different from those of the Cold War. During that era, now fortunately in the past, the United States and the Soviet Union were locked in an implacably hostile relationship. Each side deployed thousands of nuclear weapons pointed at the other. Our ultimate security rested largely on the grim premise that neither side would launch a nuclear attack because doing so would result in a counter-attack ensuring the total destruction of both nations.

Today, our security environment is profoundly different. The Cold War is over. The Soviet Union no longer exists. Russia is not an enemy, but in fact is increasingly allied with us on a growing number of critically important issues. The depth of United States-Russian cooperation in counter-terrorism is both a model of the new strategic relationship we seek to establish and a foundation on which to build further cooperation across the broad spectrum of political, economic and security issues of mutual interest.

Today, the United States and Russia face new threats to their security. Principal among these threats are weapons of mass destruction and their delivery means wielded by terrorists and rogue states. A number of such states are acquiring increasingly longer-range ballistic missiles as instruments of blackmail and coercion against the United States and its friends and allies. The United States must defend its homeland, its forces and its friends and allies against these threats. We must develop and deploy the means to deter and protect against them, including through limited missile defense of our territory.

Under the terms of the ABM Treaty, the United States is prohibited from defending its homeland against ballistic missile attack. We are also prohibited from cooperating in developing missile defenses against long-range threats with our friends and allies. Given the emergence of these new threats to our national security and the imperative of defending against them, the United States is today providing formal notification of its withdrawal from the ABM Treaty. As provided in Article XV of that Treaty, the effective date of withdrawal will be six months from today.

At the same time, the United States looks forward to moving ahead with Russia in developing elements of a new strategic relationship.

- In the inter-related area of offensive nuclear forces, we welcome President Putin's commitment to deep cuts in Russian nuclear forces, and reaffirm our own commitment to reduce U.S. nuclear forces significantly.
- We look forward to continued consultations on how to achieve increased transparency and predictability regarding reductions

in offensive nuclear forces.

- We also look forward to continued consultations on transparency, confidence building, and cooperation on missile defenses, such as joint exercises and potential joint development programs.
- The United States also plans to discuss with Russia ways to establish regular defense planning talks to exchange information on strategic force issues, and to deepen cooperation on efforts to prevent and deal with the effects of the spread of weapons of mass destruction and their means of delivery.

The United States intends to expand cooperation in each of these areas and to work intensively with Russia to further develop and formalize the new strategic relationship between the two countries.

The United States believes that moving beyond the ABM Treaty will contribute to international peace and security. We stand ready to continue our active dialogue with allies, China, and other interested states on all issues associated with strategic stability and how we can best cooperate to meet the threats of the 21st century. We believe such a dialogue is in the interest of all states.

Statement by Russian President Vladimir Putin Regarding the Decision of the Administration of the United States of America to Withdraw from the Antibalistic Missile Treaty of 1972

[Moscow, 13 December 2001]

The US Administration today announced that it will withdraw from the 1972 ABM Treaty in six months' time.

The Treaty does indeed allow each of the parties to withdraw from it under exceptional circumstances. The leadership of the United States has spoken about it repeatedly and this step has not come as a surprise to us. But we believe this decision to be mistaken.

As is known, Russia, like the United States and unlike other nuclear powers, has long possessed an effective system to overcome anti-missile defense. So, I can say with full confidence that the decision made by the President of the United States does not pose a threat to the national security of the Russian Federation.

At the same time our country elected not to accept the insistent proposals on the part of the US to jointly withdraw from the ABM Treaty and did everything it could to preserve the Treaty. I still think that this is a correct and valid position. Russia was guided above all by the aim of preserving and strengthening the international legal foundation in the field of disarmament and non-proliferation of mass destruction weapons.

The ABM Treaty is one of the supporting elements of the legal system in this field. That system was created through joint efforts during the past decades.

It is our conviction that the development of the situation in the present world dictates a certain logic of actions.

Now that the world has been confronted with new threats one cannot allow a legal vacuum to be formed in the sphere of strategic stability. One should not undermine the regimes of non-proliferation of mass destruction weapons.

I believe that the present level of bilateral relations between the Russian Federation and the US should not only be preserved but should be used for working out a new framework of strategic relations as soon as possible.

Along with the problem of anti-missile defense a particularly important task under these conditions is putting a legal seal on the achieved agreements on further radical, irreversible and verifiable cuts of strategic offensive weapons, in our opinion to the level of 1,500-2,200 nuclear warheads for each side.

In conclusion I would like to note that Russia will continue to adhere firmly to its course in world affairs aimed at strengthening strategic stability and international security.

Strategic Offensive Reductions Treaty

[Signed 24 May 2002, reproduced from:
White House Press Release, 24 May 2002]

The United States of America and the Russian Federation, hereinafter referred to as the Parties,

Embarking upon the path of new relations for a new century and committed to the goal of strengthening their relationship through cooperation and friendship,

Believing that new global challenges and threats require the building of a qualitatively new foundation for strategic relations between the Parties,

Desiring to establish a genuine partnership based on the principles of mutual security, cooperation, trust, openness, and predictability,

Committed to implementing significant reductions in strategic offensive arms,

Proceeding from the Joint Statements by the President of the United States of America and the President of the Russian Federation on Strategic Issues of July 22, 2001 in Genoa and on a New Relationship between the United States and Russia of November 13, 2001 in Washington,

Mindful of their obligations under the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms of July 31, 1991, hereinafter referred to as the START Treaty,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968, and

Convinced that this Treaty will help to establish more favorable conditions for actively promoting security and cooperation, and enhancing international stability,

Have agreed as follows:

Article I

Each Party shall reduce and limit strategic nuclear warheads, as stated by the President of the United States of America on November 13, 2001 and as stated by the President of the Russian Federation on November 13, 2001 and December 13, 2001 respectively, so that by December 31, 2012 the aggregate number of such warheads does not exceed 1700–2200 for each Party. Each Party shall determine for itself the composition and structure of its strategic offensive arms, based on the established aggregate limit for the number of such warheads.

Article II

The Parties agree that the START Treaty remains in force in accordance with its terms.

Article III

For purposes of implementing this Treaty, the Parties shall hold meetings at least twice a year of a Bilateral Implementation Commission.

Article IV

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. This Treaty shall enter into force on the date of the exchange of instruments of ratification.

2. This Treaty shall remain in force until December 31, 2012 and may be extended by agreement of the Parties or superseded earlier by a subsequent agreement.

3. Each Party, in exercising its national sovereignty, may withdraw from this Treaty upon three months written notice to the other Party.

Article V

This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on May 24, 2002, in two copies, each in the English and Russian languages, both texts being equally authentic.

Joint Statement Between President George W. Bush and Prime Minister Manmohan Singh on Nuclear Cooperation

[Reproduced from: White House Press Release,
18 July 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.

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 nonproliferation 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.

U.S.-India Joint Statement

[Excerpts reproduced from: White House Press Release,
2 March 2006]

President George W. Bush and Prime Minister Manmohan Singh today expressed satisfaction with the great progress the United States and India have made in advancing our strategic partnership to meet the global challenges of the 21st century. Both our countries are linked by a deep commitment to freedom and democracy; a celebration of national diversity, human creativity and innovation; a quest to expand prosperity and economic opportunity worldwide; and a desire to increase mutual security against the common threats posed by intolerance, terrorism, and the spread of weapons of mass destruction. The successful transformation of the U.S.-India relationship will have a decisive and positive influence on the future international system as it evolves in this new century.

Reviewing the progress made in deepening the global partnership between the United States and India since their Joint Statement of July 18, 2005, the President and the Prime Minister reaffirm their commitment to expand even further the growing ties between their two countries. Consistent with this objective, the two leaders wish to highlight efforts the United States and India are making together in the following areas, where they have:

[...] (eds.)

FOR ENERGY SECURITY AND A CLEAN ENVIRONMENT

(1) Welcomed the successful completion of discussions on India's separation plan and looked forward to the full implementation of the commitments in the July 18, 2005 Joint Statement on nuclear cooperation. This historic accomplishment will permit our countries to move forward towards our common objective of full civil nuclear energy cooperation between India and the United States and between India and the international community as a whole.

(2) Welcomed the participation of India in the ITER initiative on fusion energy as an important further step towards the common goal of full nuclear energy cooperation.

(3) Agreed on India's participation in FutureGen, an international public-private partnership to develop new, commercially viable technology for a clean coal near-zero emission power project. India will contribute funding to the project and participate in the Government Steering Committee of this initiative.

(4) Welcomed the creation of the Asia Pacific Partnership on Clean Development and Climate, which will enable India and the U.S. to work together with other countries in the region to pursue sustainable development and meet increased energy needs while addressing concerns of energy security and climate change. The Partnership will collaborate to promote the development, diffusion,

deployment and transfer of cleaner, cost-effective and more efficient technologies and practices.

[...] (eds.)

FOR GLOBAL SAFETY AND SECURITY

(1) Noted the enhanced counter-terrorism cooperation between the two countries and stressed that terrorism is a global scourge that must be fought and rooted out in every part of the world.

(2) Welcomed the increased cooperation between the United States and India in the defense area, since the New Framework for the U.S.-India Defence Relationship was signed on June 28, 2005, as evidenced by successful joint exercises, expanded defence cooperation and information sharing, and greater opportunities to jointly develop technologies and address security and humanitarian issues.

[...] (eds.)

(4) Welcomed India's intention to join the Container Security Initiative aimed at making global maritime trade and infrastructure more secure and reducing the risk of shipping containers being used to conceal weapons of mass destruction.

(5) Reiterated their commitment to international efforts to prevent the proliferation of weapons of mass destruction.

[...] (eds.)

Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006

[Reproduced from: H.R. 5682, 109th Congress, 3 January 2006]

One Hundred Ninth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday, the third day of January, two thousand and six

An Act

To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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;

(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 nonproliferation 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 safeguards 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 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, 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, reexports, 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 reexported 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 subsection (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 subsequent 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 stockpiles, 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 REGIONAL 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 toward 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 nongovernmental 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)).

(8) The terms `Nuclear Non-Proliferation Treaty' and `NPT' mean the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(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 pound 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 'unsafeguarded 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, reprocessing 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 therefrom.

TITLE II – UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

SEC. 201. SHORT TITLE.

This title may be cited as the 'United States Additional Protocol Implementation Act'.

SEC. 202. FINDINGS.

Congress makes the following findings:

(1) The proliferation of nuclear weapons and other nuclear explosive devices poses a grave threat to the national security of the United States and its vital national interests.

(2) The Nuclear Non-Proliferation Treaty has proven critical to limiting such proliferation.

(3) For the Nuclear Non-Proliferation Treaty to be effective, each of the non-nuclear-weapon State Parties must conclude a comprehensive safeguards agreement with the IAEA, and such agreements must be honored and enforced.

(4) Recent events emphasize the urgency of strengthening the effectiveness and improving the efficiency of the safeguards system. This can best be accomplished by providing IAEA inspectors with more information about, and broader access to, nuclear activities within the territory of non-nuclear-weapon State Parties.

(5) The proposed scope of such expanded information and access has been negotiated by the member states of the IAEA in the form of a Model Additional Protocol to its existing safeguards agreements, and universal acceptance of Additional Protocols by non-nuclear weapons states is essential to enhancing the effectiveness of the Nuclear Non-Proliferation Treaty.

(6) On June 12, 1998, the United States, as a nuclear-weapon State Party, signed an Additional Protocol that is based on the Model Additional Protocol, but which also contains measures, consistent with its existing safeguards agreements with its members, that protect the right of the United States to exclude the application of IAEA safeguards to locations and activities with direct national security significance or to locations or information associated with such activities.

(7) Implementation of the Additional Protocol in the United States in a manner consistent with United States obligations under the Nuclear Non-Proliferation Treaty may encourage other parties to the Nuclear Non-Proliferation Treaty, especially non-nuclear-weapon State Parties, to conclude Additional Protocols and thereby strengthen the Nuclear Non-Proliferation Treaty safeguards system and help reduce the threat of nuclear proliferation, which is of direct and substantial benefit to the United States.

(8) Implementation of the Additional Protocol by the United States is not required and is completely voluntary given its status as a nuclear-weapon State Party, but the United States has acceded to the Additional Protocol to demonstrate its commitment to the nuclear nonproliferation regime and to make United States civil nuclear activities available to the same IAEA inspections as are applied in the case of non-nuclear-weapon State Parties.

(9) In accordance with the national security exclusion contained in Article 1.b of its Additional Protocol, the United States will not allow any inspection activities, nor make any declaration of any information with respect to, locations, information, and activities of direct national security significance to the United States.

(10) Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representative to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

SEC. 203. DEFINITIONS.

In this title:

(1) ADDITIONAL PROTOCOL- The term 'Additional Protocol', when used in the singular form, means the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107-7).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES- The term 'appropriate congressional committees' means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate and the Committee on Armed Services, the Committee on International Relations, the Committee on Science, and the Committee on Appropriations of the House of Representatives.

(3) COMPLEMENTARY ACCESS- The term 'complementary access' means the exercise of the IAEA's access rights as set forth in Articles 4 to 6 of the Additional Protocol.

(4) EXECUTIVE AGENCY- The term 'executive agency' has the meaning given such term in section 105 of title 5, United States Code.

(5) FACILITY- The term 'facility' has the meaning set forth in Article 18i. of the Additional Protocol.

(6) IAEA- The term 'IAEA' means the International Atomic Energy Agency.

(7) JUDGE OF THE UNITED STATES- The term 'judge of the United States' means a United States district judge, or a United States magistrate judge appointed under the authority of chapter 43 of title 28, United States Code.

(8) LOCATION- The term 'location' means any geographic point or area declared or identified by the United States or specified by the International Atomic Energy Agency.

(9) NUCLEAR NON-PROLIFERATION TREATY- The term 'Nuclear Non-Proliferation Treaty' means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(10) NUCLEAR-WEAPON STATE PARTY AND NON-NUCLEAR-WEAPON STATE PARTY- The terms 'nuclear-weapon State Party' and 'non-nuclear-weapon State Party' have the meanings given such terms in the Nuclear Non-Proliferation Treaty.

(11) PERSON- The term 'person', except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality, or political subdivision of any such government or nation, or other entity located in the United States.

(12) SITE- The term 'site' has the meaning set forth in Article 18b. of the Additional Protocol.

(13) UNITED STATES- The term 'United States', when used as a geographic reference, means the several States of the United

States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including –

- (A) the territorial sea and the overlying airspace;
- (B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (41), respectively, of section 40102(a) of title 49, United States Code; and
- (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).

(14) WIDE-AREA ENVIRONMENTAL SAMPLING- The term 'wide-area environmental sampling' has the meaning set forth in Article 18g. of the Additional Protocol.

SEC. 204. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Subtitle A – General Provisions

SEC. 211. AUTHORITY.

(a) In General- The President is authorized to implement and carry out the provisions of this title and the Additional Protocol and shall designate through Executive order which executive agency or agencies of the United States, which may include but are not limited to the Department of State, the Department of Defense, the Department of Justice, the Department of Commerce, the Department of Energy, and the Nuclear Regulatory Commission, shall issue or amend and enforce regulations in order to implement this title and the provisions of the Additional Protocol.

(b) Included Authority- For any executive agency designated under subsection (a) that does not currently possess the authority to conduct site vulnerability assessments and related activities, the authority provided in subsection (a) includes such authority.

(c) Exception- The authority described in subsection (b) does not supersede or otherwise modify any existing authority of any Federal department or agency already having such authority.

Subtitle B – Complementary Access

SEC. 221. REQUIREMENT FOR AUTHORITY TO CONDUCT COMPLEMENTARY ACCESS.

(a) Prohibition- No complementary access to any location in the United States shall take place pursuant to the Additional Protocol without the authorization of the United States Government in accordance with the requirements of this title.

(b) Authority-

(1) IN GENERAL- Complementary access to any location in the United States subject to access under the Additional Protocol is authorized in accordance with this title.

(2) UNITED STATES REPRESENTATIVES-

(A) RESTRICTIONS- In the event of complementary access to a privately owned or operated location, no employee of the Environmental Protection Agency or of the Mine Safety and Health Administration or the Occupational Safety and Health Administration of the Department of Labor may participate in the access.

(B) NUMBER- The number of designated United States representatives accompanying IAEA inspectors shall be kept to the minimum necessary.

SEC. 222. PROCEDURES FOR COMPLEMENTARY ACCESS.

(a) In General- Each instance of complementary access to a location in the United States under the Additional Protocol shall be conducted in accordance with this subtitle.

(b) Notice-

(1) IN GENERAL- Complementary access referred to in subsection (a) may occur only upon the issuance of an actual written notice by the United States Government to the owner, operator, occupant, or agent in charge of the location to be subject to complementary access.

(2) TIME OF NOTIFICATION- The notice under paragraph (1) shall be submitted to such owner, operator, occupant, or agent as soon as possible after the United States Government has received notification that the IAEA seeks complementary access. Notices may be posted prominently at the location if the United States Government is unable to provide actual written notice to such owner, operator, occupant, or agent.

(3) CONTENT OF NOTICE-

(A) IN GENERAL- The notice required by paragraph (1) shall specify –

- (i) the purpose for the complementary access;
- (ii) the basis for the selection of the facility, site, or other location for the complementary access sought;
- (iii) the activities that will be carried out during the complementary access;
- (iv) the time and date that the complementary access is expected to begin, and the anticipated period covered by the complementary access; and
- (v) the names and titles of the inspectors.

(4) SEPARATE NOTICES REQUIRED- A separate notice shall be provided each time that complementary access is sought by the IAEA.

(c) Credentials- The complementary access team of the IAEA and representatives or designees of the United States Government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the location before gaining entry in connection with complementary access.

(d) Scope-

(1) IN GENERAL- Except as provided in a warrant issued under section 223, and subject to the rights of the United States Government under the Additional Protocol to limit complementary access, complementary access to a location pursuant to this title may extend to all activities specifically permitted for such locations under Article 6 of the Additional Protocol.

(2) EXCEPTION- Unless required by the Additional Protocol, no inspection under this title shall extend to –

- (A) financial data (other than production data);
- (B) sales and marketing data (other than shipment data);
- (C) pricing data;
- (D) personnel data;
- (E) patent data;
- (F) data maintained for compliance with environmental or occupational health and safety regulations; or
- (G) research data.

(e) Environment, Health, Safety, and Security- In carrying out their activities, members of the IAEA complementary access team and representatives or designees of the United States Government shall observe applicable environmental, health, safety, and security regulations established at the location subject to complementary access, including those for protection of controlled environments within a facility and for personal safety.

SEC. 223. CONSENTS, WARRANTS, AND COMPLEMENTARY ACCESS.

(a) In General-

(1) PROCEDURE-

(A) CONSENT- Except as provided in paragraph (2), an appropriate official of the United States Government shall seek or have the consent of the owner, operator, occupant, or agent in charge of a location prior to entering that location in connection with complementary access pursuant to sections 221 and 222. The owner, operator, occupant, or agent in charge of the location may withhold consent for any reason or no reason.

(B) ADMINISTRATIVE SEARCH WARRANT- In the absence of consent, the United States Government may seek an administrative search warrant from a judge of the United States under subsection (b). Proceedings regarding the issuance of an administrative search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(2) EXPEDITED ACCESS- For purposes of obtaining access to a location pursuant to Article 4b.(ii) of the Additional Protocol in order to satisfy United States obligations under the Additional Protocol when notice of two hours or less is required, the United States Government may gain entry to such location in connection with complementary access, to the extent such access is consistent with the Fourth Amendment to the United States Constitution, without obtaining either a warrant or consent.

(b) Administrative Search Warrants for Complementary Access-

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS- For complementary access conducted in the United States pursuant to the Additional Protocol, and for which the acquisition of a warrant is required, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to such judge all appropriate information regarding the basis for the selection of the facility, site, or other location to which complementary access is sought.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS- A judge of the United States shall promptly issue an administrative search warrant authorizing the requested complementary access upon an affidavit submitted by the United States Government –

- (A) stating that the Additional Protocol is in force;
- (B) stating that the designated facility, site, or other location is subject to complementary access under the Additional Protocol;
- (C) stating that the purpose of the complementary access is consistent with Article 4 of the Additional Protocol;
- (D) stating that the requested complementary access is in accordance with Article 4 of the Additional Protocol;
- (E) containing assurances that the scope of the IAEA's complementary access, as well as what it may collect, shall be limited to the access provided for in Article 6 of the Additional Protocol;
- (F) listing the items, documents, and areas to be searched and seized;
- (G) stating the earliest commencement and the anticipated duration of the complementary access period, as well as the expected times of day during which such complementary access will take place; and
- (H) stating that the location to which entry in connection with complementary access is sought was selected either –

- (i) because there is probable cause, on the basis of specific evidence, to believe that information required to be reported regarding a location pursuant to regulations promulgated under this title is incorrect or incomplete, and that the location to be accessed contains evidence regarding that violation; or
- (ii) pursuant to a reasonable general administrative plan based upon specific neutral criteria.

(3) CONTENT OF WARRANTS- A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition, each warrant shall contain the identities of the representatives of the IAEA on the complementary access team and the identities of the representatives or designees of the United States Government required to display identifying credentials under section 222(c).

SEC. 224. PROHIBITED ACTS RELATING TO COMPLEMENTARY ACCESS.

It shall be unlawful for any person willfully to fail or refuse to permit, or to disrupt, delay, or otherwise impede, a complementary access

authorized by this subtitle or an entry in connection with such access.

Subtitle C – Confidentiality of Information

SEC. 231. PROTECTION OF CONFIDENTIALITY OF INFORMATION.

Information reported to, or otherwise acquired by, the United States Government under this title or under the Additional Protocol shall be exempt from disclosure under section 552 of title 5, United States Code.

Subtitle D – Enforcement

SEC. 241. RECORDKEEPING VIOLATIONS.

It shall be unlawful for any person willfully to fail or refuse –

- (1) to establish or maintain any record required by any regulation prescribed under this title;
- (2) to submit any report, notice, or other information to the United States Government in accordance with any regulation prescribed under this title; or
- (3) to permit access to or copying of any record by the United States Government in accordance with any regulation prescribed under this title.

SEC. 242. PENALTIES.

(a) Civil-

- (1) PENALTY AMOUNTS- Any person that is determined, in accordance with paragraph (2), to have violated section 224 or section 241 shall be required by order to pay a civil penalty in an amount not to exceed \$25,000 for each violation. For the purposes of this paragraph, each day during which a violation of section 224 continues shall constitute a separate violation of that section.

(2) NOTICE AND HEARING-

(A) IN GENERAL- Before imposing a penalty against a person under paragraph (1), the head of an executive agency designated under section 211(a) shall provide the person with notice of the order. If, within 15 days after receiving the notice, the person requests a hearing, the head of the designated executive agency shall initiate a hearing on the violation.

(B) CONDUCT OF HEARING- Any hearing so requested shall be conducted before an administrative judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the order imposed by the head of the designated agency shall constitute a final agency action.

(C) ISSUANCE OF ORDERS- If the administrative judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 224 or section 241, the administrative judge shall state the findings of fact and conclusions of law, and issue and serve on such person an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS- In determining the amount of any civil penalty, the administrative judge or the head of the designated agency shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(E) CONTENT OF NOTICE- For the purposes of this paragraph, notice shall be in writing and shall be verifiably served upon the person or persons subject to an order described in paragraph (1). In addition, the notice shall –

- (i) set forth the time, date, and specific nature of the alleged violation or violations; and
- (ii) specify the administrative and judicial remedies available to the person or persons subject to the

order, including the availability of a hearing and subsequent appeal.

(3) ADMINISTRATIVE APPELLATE REVIEW- The decision and order of an administrative judge shall be the recommended decision and order and shall be referred to the head of the designated executive agency for final decision and order. If, within 60 days, the head of the designated executive agency does not modify or vacate the decision and order, it shall become a final agency action under this subsection.

(4) JUDICIAL REVIEW- A person adversely affected by a final order may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or in the Court of Appeals for the district in which the violation occurred.

(5) ENFORCEMENT OF FINAL ORDERS-

(A) IN GENERAL- If a person fails to comply with a final order issued against such person under this subsection and –

- (i) the person has not filed a petition for judicial review of the order in accordance with paragraph (4), or
- (ii) a court in an action brought under paragraph (4) has entered a final judgment in favor of the designated executive agency,

the head of the designated executive agency shall commence a civil action to seek compliance with the final order in any appropriate district court of the United States.

(B) NO REVIEW- In any such civil action, the validity and appropriateness of the final order shall not be subject to review.

(C) INTEREST- Payment of penalties assessed in a final order under this section shall include interest at currently prevailing rates calculated from the date of expiration of the 60-day period referred to in paragraph (3) or the date of such final order, as the case may be.

(b) Criminal- Any person who violates section 224 or section 241 may, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than five years, or both.

SEC. 243. SPECIFIC ENFORCEMENT.

(a) Jurisdiction- The district courts of the United States shall have jurisdiction over civil actions brought by the head of an executive agency designated under section 211(a) –

- (1) to restrain any conduct in violation of section 224 or section 241; or
- (2) to compel the taking of any action required by or under this title or the Additional Protocol.

(b) Civil Actions-

(1) IN GENERAL- A civil action described in subsection (a) may be brought –

(A) in the case of a civil action described in paragraph (1) of such subsection, in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 224 or section 241 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in paragraph (2) of such subsection, in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) SERVICE OF PROCESS- In any such civil action, process shall be served on a defendant wherever the defendant may reside or may be found.

Subtitle E – Environmental Sampling

SEC. 251. NOTIFICATION TO CONGRESS OF IAEA BOARD APPROVAL OF WIDE-AREA ENVIRONMENTAL SAMPLING.

(a) In General- Not later than 30 days after the date on which the Board of Governors of the IAEA approves wide-area environmental sampling for use as a safeguards verification tool, the President shall notify the appropriate congressional committees.

(b) Content- The notification under subsection (a) shall contain –

(1) a description of the specific methods and sampling techniques approved by the Board of Governors that are to be employed for purposes of wide-area sampling;

(2) a statement as to whether or not such sampling may be conducted in the United States under the Additional Protocol; and

(3) an assessment of the ability of the approved methods and sampling techniques to detect, identify, and determine the conduct, type, and nature of nuclear activities.

SEC. 252. APPLICATION OF NATIONAL SECURITY EXCLUSION TO WIDE-AREA ENVIRONMENTAL SAMPLING.

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any wide-area environmental sampling proposed by the IAEA to be conducted at a specified location in the United States under Article 9 of the Additional Protocol unless the President has determined and reported to the appropriate congressional committees with respect to that proposed use of environmental sampling that –

(1) the proposed use of wide-area environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of wide-area environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) the United States –

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving wide-area environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of wide-area environmental sampling.

SEC. 253. APPLICATION OF NATIONAL SECURITY EXCLUSION TO LOCATION-SPECIFIC ENVIRONMENTAL SAMPLING.

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any location-specific environmental sampling in the United States under Article 5 of the Additional Protocol unless the President has determined and reported to the appropriate congressional committees with respect to that proposed use of environmental sampling that –

(1) the proposed use of location-specific environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of location-specific environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) with respect to the proposed use of environmental sampling, the United States –

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving location-specific environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of location-specific environmental sampling.

SEC. 254. RULE OF CONSTRUCTION.

As used in this subtitle, the term ‘necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party’ shall not be construed to encompass proposed uses of environmental sampling that might assist the IAEA in detecting undeclared nuclear activities in the territory of a non-nuclear-weapon State Party by –

- (1) setting a good example of cooperation in the conduct of such sampling; or
- (2) facilitating the formation of a political consensus or political support for such sampling in the territory of a non-nuclear-weapon State Party.

Subtitle F – Protection of National Security Information and Activities**SEC. 261. PROTECTION OF CERTAIN INFORMATION.**

(a) Locations and Facilities of Direct National Security Significance- No current or former Department of Defense or Department of Energy location, site, or facility of direct national security significance shall be declared or be subject to IAEA inspection under the Additional Protocol.

(b) Information of Direct National Security Significance- No information of direct national security significance regarding any location, site, or facility associated with activities of the Department of Defense or the Department of Energy shall be provided under the Additional Protocol.

(c) Restricted Data- Nothing in this title shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of restricted data controlled by the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), including in particular ‘Restricted Data’ as defined under paragraph (1) of section 11 y. of such Act (42 U.S.C. 2014(y)).

(d) Classified Information- Nothing in this Act shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of national security information and other classified information.

SEC. 262. IAEA INSPECTIONS AND VISITS.

(a) Certain Individuals Prohibited From Obtaining Access- No national of a country designated by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) as a government supporting acts of international terrorism shall be permitted access to the United States to carry out an inspection activity under the Additional Protocol or a related safeguards agreement.

(b) Presence of United States Government Personnel- IAEA inspectors shall be accompanied at all times by United States Government personnel when inspecting sites, locations, facilities, or activities in the United States under the Additional Protocol.

(c) Vulnerability and Related Assessments- The President shall conduct vulnerability, counterintelligence, and related assessments not less than every 5 years to ensure that information of direct national security significance remains protected at all sites, locations, facilities, and activities in the United States that are subject to IAEA inspection under the Additional Protocol.

Subtitle G – Reports**SEC. 271. REPORT ON INITIAL UNITED STATES DECLARATION.**

Not later than 60 days before submitting the initial United States declaration to the IAEA under the Additional Protocol, the President shall submit to Congress a list of the sites, locations, facilities, and activities in the United States that the President intends to declare to the IAEA, and a report thereon.

SEC. 272. REPORT ON REVISIONS TO INITIAL UNITED STATES DECLARATION.

Not later than 60 days before submitting to the IAEA any revisions to the United States declaration submitted under the Additional Protocol, the President shall submit to Congress a list of any sites, locations, facilities, or activities in the United States that the

President intends to add to or remove from the declaration, and a report thereon.

SEC. 273. CONTENT OF REPORTS ON UNITED STATES DECLARATIONS.

The reports required under section 271 and section 272 shall present the reasons for each site, location, facility, and activity being declared or being removed from the declaration list and shall certify that –

- (1) each site, location, facility, and activity included in the list has been examined by each agency with national security equities with respect to such site, location, facility, or activity; and
- (2) appropriate measures have been taken to ensure that information of direct national security significance will not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

SEC. 274. REPORT ON EFFORTS TO PROMOTE THE IMPLEMENTATION OF ADDITIONAL PROTOCOLS.

Not later than 180 days after the entry into force of the Additional Protocol, the President shall submit to the appropriate congressional committees a report on –

- (1) measures that have been or should be taken to achieve the adoption of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties; and
- (2) assistance that has been or should be provided by the United States to the IAEA in order to promote the effective implementation of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties and the verification of the compliance of such parties with IAEA obligations, with a plan for providing any needed additional funding.

SEC. 275. NOTICE OF IAEA NOTIFICATIONS.

The President shall notify Congress of any notifications issued by the IAEA to the United States under Article 10 of the Additional Protocol.

Subtitle H – Authorization of Appropriations**SEC. 281. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title.

Speaker of the House of Representatives.
Vice President of the United States and
President of the Senate.

**Joint Statement by the Prime Minister of the
Republic of India and the President of the
Russian Federation of Cooperation in the Field
of Peaceful Uses of Atomic Energy**

[New Delhi, 25 January 2007]

India and Russia, reaffirm the importance of their strategic partnership which serves their national interests, strengthens bilateral relations and contributes to international peace and security and highlight the importance of mutually beneficial cooperation and shared objectives in the field of nuclear energy.

India and Russia, as states possessing advanced nuclear technologies, recognize that nuclear energy provides a safe, environmental friendly and sustainable source of energy. They underline the need to further develop international cooperation in promoting the use of nuclear energy for peaceful purposes in accordance with their respective international commitments and national legislations. They believe that nuclear energy will provide an indispensable source of energy to future generations.

India and Russia as responsible states share an objective of ensuring non-proliferation of weapons of mass destruction and their means of delivery including possible linkages with terrorism.

India and Russia resolve to further emphasize their willingness to expand and strengthen their scientific and other exchanges and bilateral dialogue on peaceful uses of nuclear energy.

India and Russia note with satisfaction their ongoing cooperation in construction of nuclear power plants at Kudankulam. India and Russia reaffirm their commitment to work together to expand civil nuclear energy cooperation, with a special emphasis on nuclear power generation aimed at enabling India to realize its goals of promoting nuclear power and achieving energy security in a self sustaining manner.

With the objective to implement these intentions, an agreement between the Government of the Republic of India and the Government of the Russian Federation will be signed on cooperation in the construction of 4 additional power units at Kudankulam. (This understanding was reflected in the Memorandum of Intent dated 25.01.2007.)

India undertakes that the reactor facilities and nuclear fuel supplied by Russia shall remain under the IAEA safeguards during the entire period of their actual use in accordance with the agreement on safeguards, which shall be concluded between the Republic of India and the IAEA. It will also inter alia take into account measures relating to physical protection and other issues as may be mutually agreed.

Russia will continue to work with the Participating Governments of NSG in order to create conditions through amendment to its guidelines to facilitate expansion of civilian nuclear energy cooperation with India.

India and Russia recognize the importance of R&D for development of innovative technologies which reduce the risk of nuclear proliferation to further facilitate the wide scale development of nuclear energy. International project for nuclear reactors and fuel cycles (INPRO) which is being implemented under the aegis of IAEA with the participation of India and Russia is an example of productive international cooperation.

India and Russia express their willingness to further expand and strengthen their bilateral civilian nuclear energy cooperation by broadbasing cooperation covering both power (fission and fusion energy) and non-power applications in areas of mutual interest to be identified by both sides.

The Department of Atomic Energy, India and the Federal Atomic Energy Agency, the Russian Federation will work out in 2007 a comprehensive programme of cooperation in the field of peaceful uses of atomic energy between India and Russia.

**Joint Statement by US Secretary of State
Condoleezza Rice and Indian Minister of
External Affairs Shri Pranab Mukherjee**

[27 July 2007]

The United States and India have reached a historic milestone in their strategic partnership by completing negotiations on the bilateral agreement for peaceful nuclear cooperation, also known as the "123 agreement." This agreement will govern civil nuclear trade between our two countries and open the door for American and Indian firms to participate in each other's civil nuclear energy sector.

The conclusion of negotiations on this agreement marks a major step forward in fulfilling the promise of full civil nuclear cooperation as envisioned by President Bush and Prime Minister Manmohan Singh.

The successful completion of the text permits us to move forward on the U.S.-India Civil Nuclear Cooperation initiative, first announced by the two leaders on July 18, 2005, and reaffirmed on March 2, 2006. The next steps include India's negotiation of a safeguards agreement with the IAEA and support for nuclear trade with India in the forty-five member Nuclear Suppliers Group. Once these additional actions have been completed, President Bush will submit the text of the agreement to the U.S. Congress for final approval.

Civil nuclear cooperation between the United States and India will offer enormous strategic and economic benefits to both countries, including enhanced energy security, a more environmentally-friendly energy source, greater economic opportunities, and more robust nonproliferation efforts.

This achievement reinforces the growing bilateral relationship between two vibrant democracies. We are committed to the strategic partnership outlined by President Bush and Prime Minister Manmohan Singh, and look forward to working together to implement this historic initiative.

**Agreement for Cooperation Between the
Government of the United States of America and
the Government of India Concerning Peaceful
Uses of Nuclear Energy (123 Agreement)**

[Released 8 August 2007]

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;

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 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.

(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.

(P) "Sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, or fabrication of nuclear fuel containing plutonium.

(Q) "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, non-nuclear 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:

- 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:

- 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.
- 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.
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

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.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Agreement.

DONE at , this day of , 200 , in duplicate.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF INDIA:

AGREED MINUTE

During the negotiation of the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy ("the Agreement") signed today, the following understandings, which shall be an integral part of the Agreement, were reached.

Proportionality

For the purposes of implementing the rights specified in Articles 6 and 7 of the Agreement with respect to special fissionable material and by-product material produced through the use of nuclear material and non-nuclear material, respectively, transferred pursuant to the Agreement and not used in or produced through the use of equipment transferred pursuant to the Agreement, such rights shall in practice be applied to that proportion of special fissionable material and by-product material produced that represents the ratio of transferred nuclear material and non-nuclear material, respectively, used in the production of the special fissionable material and by-product material to the total amount of nuclear material and non-nuclear material so used, and similarly for subsequent generations.

By-product material

The Parties agree that reporting and exchanges of information on by-product material subject to the Agreement will be limited to the following:

(1) Both Parties would comply with the provisions as contained in the IAEA document GOV/1999/19/Rev.2, with regard to by-product material subject to the Agreement.

(2) With regard to tritium subject to the Agreement, the Parties will exchange annually information pertaining to its disposition for peaceful purposes consistent with Article 9 of this Agreement.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF INDIA:

Released on August 3, 2007

**Letter from the Permanent Representatives of
the Russian Federation and the United States of
America to the United Nations, Addressed to the
Secretary-General**

[A/C.1/62/3 1 November 2007]

We have the honour to transmit herewith the text of the Joint Statement on the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles (see annex), issued on 25 October 2007 by the Russian Federation and the United States of America.

We would be grateful if the text of the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 98.

(Signed) Vitaly I. Churkin

Permanent Representative of the Russian Federation to the United Nations

(Signed) Zalmay Khalilzad

Permanent Representative of the United States of America to the United Nations

**Annex to the letter dated 26 October 2007 from the Permanent
Representatives of the Russian Federation and the United
States of America to the United Nations addressed to the
Secretary-General**

**Joint United States-Russian Statement on the Treaty on the
Elimination of Intermediate-Range and Shorter-Range
Missiles at the sixty-second session of the General Assembly**

December 8, 2007 marks the twentieth anniversary of the signing of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, which banned ground-launched ballistic and cruise missiles with ranges between 500 and 5,500 kilometres. It is hard to overestimate the historic significance of this act: it marked an important, practical step in meeting our NPT article VI obligation to pursue negotiations in good faith on nuclear disarmament. By late 1991, the Union of Soviet Socialist Republics and the United States destroyed all missiles of these two classes along with all supporting infrastructure under strict verification procedures.

We would like to underscore the contribution of this Treaty to decreased international tensions, particularly in Europe. The Russian Federation and the United States take this occasion to reaffirm our joint support for the INF Treaty.

We are concerned with the proliferation of intermediate- and shorter-range missiles. An ever-greater number of countries are acquiring missile production technologies and adding such missiles to their arsenals. At the same time, the Treaty, being of unlimited duration, is limiting the actions only of a few States, primarily Russia and the United States.

The Russian Federation and the United States call on all interested countries to discuss the possibility of imparting a global character to this important regime through the renunciation of ground-launched ballistic and cruise missiles with ranges between 500 and 5,500 kilometres, leading to destruction of any such missiles and the cessation of associated programmes. Such a renunciation would serve to strengthen the international nuclear missile non-proliferation effort.

Today the Treaty retains its long-standing importance. We believe that renunciation of ground-launched intermediate- and shorter-range missiles and their complete elimination in the world would increase the role of the Treaty as a model for strengthening international security.

The Russian Federation and the United States will work with all interested countries and continue to make every effort to prevent the proliferation of such missiles and strengthen peace in the world.