Enhancing India’s Role in the Global Nonproliferation Regime

A Report of the CSIS South Asia Program and the Nuclear Threat Initiative

AUTHOR
Lisa Curtis

December 2010
About CSIS

In an era of ever-changing global opportunities and challenges, the Center for Strategic and International Studies (CSIS) provides strategic insights and practical policy solutions to decisionmakers. CSIS conducts research and analysis and develops policy initiatives that look into the future and anticipate change.

Founded by David M. Abshire and Admiral Arleigh Burke at the height of the Cold War, CSIS was dedicated to the simple but urgent goal of finding ways for America to survive as a nation and prosper as a people. Since 1962, CSIS has grown to become one of the world’s preeminent public policy institutions.

Today, CSIS is a bipartisan, nonprofit organization headquartered in Washington, DC. More than 220 full-time staff and a large network of affiliated scholars focus their expertise on defense and security; on the world’s regions and the unique challenges inherent to them; and on the issues that know no boundary in an increasingly connected world.

Former U.S. senator Sam Nunn became chairman of the CSIS Board of Trustees in 1999, and John J. Hamre has led CSIS as its president and chief executive officer since 2000.

CSIS does not take specific policy positions; accordingly, all views expressed herein should be understood to be solely those of the author(s).

© 2010 by the Center for Strategic and International Studies. All rights reserved.


*Enhancing India’s Role in the Global Nonproliferation Regime* was written as a part of an effort by the Working Group on an Expanded Nonproliferation System. The group was jointly established by CSIS and the Nuclear Threat Initiative to bring about more complete participation by India in the nonproliferation system, and it included experts in international nuclear affairs and in foreign policy from both India and the United States. The group advocated for Indian membership in export control groups.

Center for Strategic and International Studies
1800 K Street, NW, Washington, DC 20006
Tel: (202) 775-3119
Fax: (202) 775-3199
Web: www.csis.org
One of the major objectives of the U.S.-India civil nuclear deal was to bring India within the international nuclear nonproliferation regime by giving it both the rights and responsibilities broadly equivalent to those of the Nuclear Non-Proliferation Treaty (NPT) member states, without requiring it to officially sign the treaty. This allows India to maintain its nuclear weapons deterrent and to obtain access to civilian nuclear technology and fuel. By the same token, the U.S.-India civil nuclear deal and the Nuclear Suppliers Group exemption compel India to commit to the same nonproliferation standards as those expected from other nuclear-armed NPT member states. This should involve India cooperating more closely with and eventually joining the four major nonproliferation groups: the Nuclear Suppliers Group (NSG), the Missile Technology Control Regime (MTCR), the Australia Group (AG), and the Wassenaar Arrangement.

Incorporating India into the international nonproliferation framework should be viewed as an ongoing process that will take hard work and innovative thinking by the United States and India, as well as other partners that play a role in upholding the international regime. While the passage of the NSG exemption in September 2008, allowing India to engage in civil nuclear trade, was a major milestone, it should not be seen as the end point to this process.

India can take further steps to demonstrate its support (not necessarily endorsement) for the goals of the NPT and related nonproliferation groupings. New Delhi’s proposal at the Nuclear Security Summit in Washington, D.C., in April 2010 to establish a “Global Center for Nuclear Energy Partnership” to study nuclear safety and security issues was a constructive gesture and a good start to building a case for India’s active involvement in the multilateral nonproliferation groups. As Indian strategic affairs analyst Raja Mohan noted recently, India used the forum of the Nuclear Security Summit as a way to signal its willingness to work with others toward global nuclear nonproliferation goals. Continuing to improve its export control processes and demonstrating a degree of transparency with its strategic weapons programs also would help bolster the case for India’s full membership in the multilateral nonproliferation groupings.

---

1 Lisa Curtis is a senior research fellow in the Asian Studies Center at the Heritage Foundation in Washington, D.C.
With regard to the United States and other international partners, they will need to develop fresh ways of thinking about India’s relationship to the NPT and nonproliferation system that take into account the reality that India is highly unlikely to join the treaty as a non-weapons state anytime in the near future. This will be challenging since the traditional accepted criteria for membership in most of the multilateral nonproliferation groups has always included NPT membership. This report will examine each of the four groupings and explore opportunities and obstacles to encouraging more active Indian involvement with the groups.

**U.S. Administration’s Views of India and Global Nonproliferation Are Evolving**

The Barack Obama administration has signaled a strong focus on global nuclear nonproliferation but has been slow to clarify its agenda for moving forward and its views on India’s role in that process. Secretary of State Hillary Clinton has talked about an “NPT for the twenty-first century,” while other administration officials emphasize the importance of preserving the NPT in its current form and of U.S. commitment to the Comprehensive Test Ban Treaty (CTBT) and the Fissile Material Cutoff Treaty (FMCT). The NPT Review Conference at the United Nations in New York that concluded on May 28, 2010, adopted a final document that reaffirmed the importance of the NPT, but also gave equal weight to the three primary goals of preventing the spread of nuclear weapons, guaranteeing the right to nuclear energy for peaceful purposes, and the pursuit of worldwide nuclear disarmament.

In a speech in April 2010, Deputy Secretary of State Jim Steinberg said there had been an evolution in the way the United States thinks about longer-term strategy in dealing with the challenges of nuclear weapons and security. He indicated that the United States wants to move forward in a positive way with India, even as it possesses nuclear weapons and remains outside the NPT. He recognized India’s “strong record” in dealing with the challenges of arms proliferation and said “rather than fight past battles, we have tried to think of how we can move forward in a positive direction.” Building on this theme, Undersecretary of State for Political Affairs Bill Burns asserted in early June that India was contributing constructively to global nonproliferation and nuclear security efforts and noted President Obama’s praise for India’s leadership in launching a regional nuclear security training center.

**Nuclear Suppliers Group (NSG)**

The NSG was established in 1974 and currently comprises 46 member states who have agreed on export controls of nuclear-related equipment and technology to nonnuclear states. It was founded in response to India’s 1974 nuclear tests, which exposed the dangers of transferring nuclear technology for peaceful purposes. The first set of NSG guidelines pertains to items that are especially designed for nuclear use. The second set of guidelines governs the export of dual-use items (equipment or technology that can make a major contribution to an unsafeguarded nuclear fuel cycle or nuclear explosives activity, but that also has nonnuclear uses). A potential new
member of the NSG is evaluated on its proliferation record, adherence to international nonproliferation treaties, and national export controls.

In the July 18, 2005, statement on the U.S.-India civil nuclear deal, Prime Minister Manmohan Singh stated that India “would take on the same responsibilities and practices and acquire the same benefits and advantages as other leading countries with advanced nuclear technology.” India made eight specific commitments, including helping support international efforts to limit the spread of enrichment and reprocessing technologies and harmonizing its export controls with MTCR and NSG guidelines. Indeed, Section 104(b)(6)(B) of the Hyde Act enabling U.S. civil nuclear cooperation with India required U.S. presidential determination that India had harmonized “its export control laws, regulations, policies, and practices with the guidelines and practices” of the MTCR and NSG.²

The NSG decided during a meeting held September 4–6, 2008, to exempt India from some of its export guidelines, thus allowing NSG members to take their own decisions regarding nuclear exports to India.³ Reaching consensus within the NSG on the Indian exemption was a hard sell with several non-weapons states, such as Austria, Ireland, the Netherlands, New Zealand, Norway, and Switzerland, which issued a joint statement at an August 2008 NSG meeting explaining that they had proposed amendments to the U.S. initiative. These NSG members favored adding explicit conditions on the exemption, such as a ban on the transfer of enrichment and reprocessing technology and language making the exemption null and void if India conducted another round of nuclear testing. There continues to be debate in India over whether the country has a credible nuclear deterrent, given that it is widely accepted that the 45-kiloton thermonuclear device India tested in May 1998 failed, thus potentially necessitating the need for additional nuclear tests.

The waiver ultimately cited existing group guidelines that members “should exercise restraint” in enrichment and reprocessing exports. The waiver further commits each NSG member to regularly inform the group of certain “approved transfers” to India and invites each country to share information on their bilateral nuclear cooperation agreements with India.

The United States reportedly was able to dissuade other countries from insisting that a specific enrichment and reprocessing transfer ban be included as part of the India waiver by highlighting NSG negotiations underway to limit all future enrichment and reprocessing transfers to NPT states. In its September 6 statement, Ireland asserted its understanding that “no [participating NSG member] currently intends to transfer to India any facilities, equipment, materials or technology related to the enrichment of uranium, or the reprocessing of spent fuel.”

---

³ Kerr, “U.S. Nuclear Cooperation with India,” p. 27.
Just before the NSG decision, the Indian government also demonstrated good faith by issuing a Ministry of External Affairs Statement on Disarmament and Nonproliferation on September 5, 2008, which stated that “Our civil nuclear initiative will strengthen the international nonproliferation regime” and recommitted India to a moratorium on further nuclear testing. Still, reports surfaced after the meeting that diplomats from the skeptical countries were not completely satisfied by the NSG decision and had felt pressured by the United States to agree to the exemption. Any effort to promote India’s full membership in the NSG would almost certainly meet stiff resistance from the same countries that were uncomfortable granting India the 2008 waiver on civil nuclear trade.

As part of the September 2008 NSG decision, India was given a nonbinding consultative role within the NSG, which allows New Delhi to keep abreast of changes to guidelines but provides it no real ability to influence the deliberations regarding such changes. The September 2008 NSG statement says the chairman of the NSG is “requested to consult with India regarding changes to and implementation of” the group’s guidelines. India’s relationship with the NSG goes back to 2004 when it hosted a visit by an NSG team for the first-ever talks between the group and India. In April 2005, the NSG Consultative Group again visited New Delhi to discuss the effectiveness of domestic export controls in checking proliferation of nuclear material.

Although there is no official statement indicating that NSG members must be members of the NPT, U.S. officials hold that there is a shared understanding among the NSG members that this should be the case. The NSG evolved from the Zangger Committee, which in turn has its origins in the NPT. Several NSG documents also mention the NPT as a cornerstone of its policies.

Though the NSG may be closely associated with the NPT, it is also a fact that the NSG was originally created in a way that France could join even though it had not yet signed the NPT. France was able to join the NSG at the outset when representatives of nations possessing nuclear technology met in London in the wake of India’s first round of nuclear testing in 1974. The group was immediately focused on additional restrictions that they could agree to in order to slow

---

5 Kerr, “U.S. Nuclear Cooperation with India,” p. 29.
7 The Zangger Committee coordinates the implementation of Article III (2) of the NPT by assembling the specific list of nuclear materials, equipment, and technologies that require IAEA safeguards as conditions of their export. There are currently 37 members of the Zangger Committee that coordinate the so-called trigger list.
further proliferation. The participating countries recognized that strengthening multilateral cooperation on export controls on nuclear technology must take into account that the important exporters of such technology remained outside the NPT (i.e., France and Japan).

In 1975, the United Kingdom, which was acting as a permanent secretariat of the Zangger Committee, invited six other nuclear suppliers—Canada, France, the Federal Republic of Germany, Japan, the Soviet Union, and the United States—to a series of meetings in London at which the original guidelines were drafted. The guidelines were adopted in September 1977. Because the discussions in the NSG were not directly associated with the text of the NPT, participating states were able to take a more flexible and extensive approach to developing a list of items subject to agreed guidelines.\(^9\)

**Missile Technology Control Regime (MTCR)**

The MTCR was established in 1987 to restrict proliferation of weapons of mass destruction (WMD) capable ballistic missiles, cruise missiles, and unmanned aerial vehicles and associated technology to non-missile states. While there is no specific legal linkage between being a member of MTCR and signing the NPT, all current members of the MTCR are signatories of the NPT. Admission of new MTCR members is based on whether the prospective member will strengthen international nonproliferation efforts. As of March 2010, there were 34 members of MTCR and four “unilateral adherents” (Israel, Romania, Slovakia, and Macedonia). China applied for MTCR membership in 2004, but its application remains under review. India recently sent a letter to the MTCR point of contact in Paris notifying the group that it has adhered to MTCR guidelines.

India began a dedicated missile development program in the early 1980s and has since developed two ballistic missiles: the Prithvi (surface-to-surface, short range up to 500 kilometers) and Agni-I (medium range up to 700 kilometers). Indian officials have also expressed interest in an intercontinental ballistic missile (ICBM), motivated by a desire to achieve symbolic nuclear parity with China and a second-strike capability against both Pakistan and China.\(^11\) Ballistic missile programs are tightly coupled with nuclear weapons programs since they are the primary survivable delivery vehicle for nuclear weapons. They also hold tremendous symbolism regarding a state’s capabilities.\(^12\)

---


times. Indian flight-testing of ballistic missiles has often been directed at signaling Pakistan during times of high tension but also at emphasizing India’s indigenous and sophisticated technological achievements.

India was under tremendous pressure from the United States in the early 1990s to modify its nuclear and missile posture. Official U.S. policy during these years was “to cap, roll back, and eventually eliminate” Indian nuclear and missile capabilities. The United States opposed the deployment of the short-range Prithvi missile and development of the medium-range Agni missile and imposed sanctions on India’s civilian space programs in 1992 because of the potential for cryogenic rocket technology to contribute to India’s ballistic missile capability. Indian flight-testing of ballistic missiles has often been directed at signaling Pakistan during times of high tension but also at emphasizing India’s indigenous and sophisticated technological achievements.

U.S. official reactions to Indian ballistic missile testing have softened considerably over the last five years (for instance, there was only muted U.S. reaction to India’s test-firing of Agni-III in July 2007). Many Indians also interpret U.S. recognition of India as “a state with advanced nuclear technology” as de facto acceptance of its nuclear and ballistic missile programs. Still there are strong tendencies within the U.S. government to view India’s ballistic missile programs as destabilizing for the region, which makes U.S. officials reluctant to take any step that could be interpreted as lending approval or acceptance of India’s sensitive missile programs. Moreover, the United States continues to prioritize efforts that ensure it in no way materially facilitates development of India’s ballistic missile programs.

India has taken measures to strengthen export control laws on nuclear, missile, and dual-use technologies to bring them in line with global norms. Most notably, India enacted the Weapons of Mass Destruction and their Delivery Systems (Prohibitions of Unlawful Activities) Bill in 2005. The WMD Act consolidated and expanded India’s existing export control provisions by criminalizing unauthorized possession, export, and transit of materials and technology related to nuclear, biological, and chemical weapons and missile delivery systems. It also broadened legal liability so that managers of firms can be held liable for such action. Although the U.S. president has certified that India has harmonized its export control lists with those of the MTCR, India is still treated as an outsider by the MTCR for its pursuit of a guided missile development program.

In addition to the perception that India’s ballistic missile programs contribute to destabilization in South Asia, India’s status outside the NPT is a major stumbling block to it joining the MTCR. Like the NSG, NPT membership is considered an important requirement for MTCR membership. The MTCR does not accommodate observer status for states, like India, that voluntarily adhere to some or even all the guidelines, although MTCR members “welcome opportunities to conduct broader dialogue on proliferation issues with such countries.”

13 Ibid., p. 147.
14 Choudhury, The Indo-USA Nuclear Deal, p. 8.
Some Indians argue that since New Delhi is only an adherent and not treated as an equal partner within the MTCR, it is forced to accept MTCR guidelines that are rules and interpretations set by the United States and other member countries. Others note that India would adhere to MTCR guidelines regardless of the potential for full membership in the grouping since it wants to maintain a record of being a responsible steward of its strategic weapons programs. Others highlight that India is equally threatened by missile proliferation and thus has self-interest in supporting the MTCR regime, even if from the outside. New Delhi is somewhat resentful that it is still presumed to be a “target” within the missile context, rather than being viewed as a cooperative partner in restricting proliferation of missile technology. It distinguishes itself from countries like China, which proliferated M-11 missile technology to Pakistan in the early 1990s.

**Australia Group (AG)**

Established in 1985, the Australia Group (AG) is an informal forum of 41 countries, permanently chaired by Australia, which seeks to ensure that exports do not contribute to the development of chemical or biological weapons. Through harmonization of export controls and coordination of national export control measures, the AG participants fulfill their obligations under the Chemical Weapons Convention and the Biological and Toxins Weapons Convention. Other criteria for membership include implementing an effective export control system that controls all items on the AG list and is supported by adequate licensing and enforcement regimes. Members must also create channels for confidential exchange of information and a denial notification system that protects commercial confidentiality. The decision on admitting new members is made by consensus.

A policy brief published in October 2009 by Rory Medcalf and Amandeep Gill argues that Canberra should reach out to New Delhi and promote its involvement in the AG as a way to “raise comfort levels” between Australia and India in engaging on international nonproliferation. The paper highlights the need for new platforms for dialogue and exchange between India and the NPT states in order to address new nuclear dangers. The authors make the case that it would be easier for India to join the Australia Group than the NSG or MTCR, given the NSG and MTCR links to the NPT, and since Indian export control laws are already based on AG guidelines.16

**Wassenaar Arrangement**

In July 1996, 33 nations approved the Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies. In this case, dual-use goods refers to commodities, processes, or technologies used primarily for civilian purposes but which can also be used to develop or enhance the capabilities of military equipment. The Wassenaar

---

Arrangement replaced the Coordinating Committee for Multilateral Export Controls (CoCom), the Cold War organization that controlled sensitive technology exports to Communist nations. The Wassenaar Arrangement is specifically designed to contribute to regional and international security and stability, by “promoting transparency and greater responsibility with regard to transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations.”

Every six months members exchange information on deliveries of conventional arms to non-Wassenaar members that fall under eight broad weapon categories: battle tanks, armored combat vehicles, large-caliber artillery, military aircraft/unmanned aerial vehicles, military and attack helicopters, warships, missiles or missile systems, and small arms and light weapons.

Member nations of the Wassenaar Arrangement must adhere to major existing nonproliferation regimes, treaties, and effective export controls. Members are expected to ban arms sales to Iran and North Korea. Major arms exporters Belarus, China, and Israel are not members. China has not been invited to join Wassenaar because of concerns regarding its weapons exports to Iran and Pakistan and other shortcomings in its export controls.

Although there is an expectation of NPT membership, the fact that Wassenaar focuses more on controlling conventional weapons may make it an easier sell for Indian membership. India has a solid track record on controlling its defense exports, and thus a strong case can be made for allowing India to join this grouping without having signed the NPT. Since 2004, India has only exported major conventional arms to eight countries: Bhutan, Ecuador, Maldives, Mauritius, Burma, Nepal, Seychelles, and Sri Lanka. Nepal, Burma, and Sri Lanka received the most arms transfers from India, ranging from armored personnel carriers and helicopters for Nepal and offshore patrol vessels and air-surveillance radar for Sri Lanka to T-55 tanks, armored personnel carriers, towed 105mm light guns, and light transport aircraft for Burma.

**Conclusion**

New Delhi should seek ways to associate more closely with the four major nonproliferation groupings—the Nuclear Suppliers Group, the Missile Technology Control Regime, the Australia Group, and the Wassenaar Arrangement—with the intent to eventually join them as a full member. India’s membership in these groupings would serve to strengthen the global nonproliferation order. The major challenge in bringing India into these organizations is its status outside the NPT. The stakeholders within the nonproliferation regime need to consider whether the primary function of these groups is to force NPT adherence or to limit the spread of nuclear, biological, chemical, sensitive missile, and other military technologies. If it is the latter, then from

---

a practical perspective, Indian inclusion in the groups will almost certainly strengthen their ability to achieve their primary objectives.

Accepting India as a full member to the nonproliferation groupings would require the United States and other stakeholders to decide that having India participate fully as a partner—rather than as a target—within them would strengthen the global nonproliferation order. They would have to let go of the idea that NPT membership is the litmus test for countries to be able to join the groupings.

For its part, India would have to overcome its opposition to ad-hoc nonproliferation groupings. India already is demonstrating an increased willingness to deal constructively with the international community on nuclear nonproliferation issues, most recently by the proactive role it played during the Nuclear Security Summit. Since the completion of the U.S.-India civil nuclear deal, Indian officials generally avoid criticizing the NPT and are beginning to articulate a view of nonproliferation that is closely aligned with that of the major nonproliferation stakeholders. The completion of the nuclear deal and NSG exemption has brought fresh confidence among Indian policymakers, who no longer feel forced to take defensive positions on nuclear nonproliferation issues because of their status as an outsider to the international regime.

India will likely have to take the lead in making its case for membership in the various nonproliferation groupings. Given the large amount of political capital U.S. officials expended to convince the NSG member states to approve the exemption for civil nuclear trade with India in 2008, it is unlikely the United States would seek to take on another major effort to convince NSG members that India should be made an official member of the grouping. That said, the United States would almost certainly lend its full support to India if it embarked on its own charm offensive to win support from the other nonproliferation stakeholders. The United States would also likely need to table any motion to grant India full NSG membership, but would rely on India to do much of the behind-the-scenes diplomatic work to gain favorable consensus among the member states. A potential obstacle, however, is lingering anger from some senior officials within the Obama administration who believe that the civil nuclear deal with India was a mistake and thus would be loath to take further action that could be viewed as recognition of India’s nuclear weapons status.

As India increases its capacity to export sensitive technologies and as the global nuclear industry experiences an expected “renaissance,” bringing India into conformity with the international nonproliferation system becomes even more crucial. India must be proactive in taking steps to upgrade its export control system, which will strengthen its case for becoming a full-fledged member of the multilateral nonproliferation groupings. U.S. officials note that India has been responsive to U.S. calls for action in limited instances when Indian companies have proliferated. But there are additional steps India can take to ensure its domestic industries are more in line with international best practices in export control and regulation. It can also improve the process of end-use monitoring and verification and enhance outreach to industry as more Indian companies become involved in exporting dual-use items.
The U.S.-India civil nuclear deal crossed a major milestone in bringing India closer to the international nonproliferation regime, especially through expanding the reach of safeguards on civilian nuclear facilities and by conforming its export controls with the MTCR and NSG lists. Indian officials in cooperation with their U.S. partners must continue to move the process forward by seeking ways to actively involve India in the major nonproliferation groupings. As Secretary of State Hillary Clinton noted at the opening of the first round of the Strategic Dialogue in Washington, D.C., the “U.S.-India partnership will help shape the rest of this century.” Cooperation on nonproliferation and addressing nuclear dangers will inevitably form a major part of that partnership.