

## **The President's India Civilian Nuclear Bill**

### Section XX. Waiver Authority. –

(a) Notwithstanding any other provision of law, if the President makes the determinations described in subsections (b) and (c), he may:

(1) exempt a proposed agreement for cooperation with India (arranged pursuant to section 123 of the Atomic Energy Act, as amended) from the requirement in section 123(a)(2) of the Atomic Energy Act, and such agreement for cooperation shall be subject to the same congressional review procedures under sections 123(b) and 123(d) as an agreement for cooperation that has not been exempted from any requirement contained in section 123(a);

(2) waive the application of section 128 of the Atomic Energy Act with respect to India; and

(3) waive the application of any sanction under section 129 of the Atomic Energy Act with respect to India.

(b) 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 facilities, materials, and programs, and has filed a declaration regarding its civil facilities with the IAEA;

(2) An agreement has entered into force 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 paragraph (1) above;

(3) India and the IAEA have made satisfactory progress toward implementing an Additional Protocol that would apply to India's civil nuclear program;

(4) India is working with the United States for the conclusion of a multilateral Fissile Material Cutoff Treaty; and

(5) India is supporting international efforts to prevent the spread of enrichment and reprocessing technology; and

(6) India is ensuring that the necessary steps are being taken to secure nuclear materials and technology through the application of comprehensive export control legislation and regulations, and through harmonization and adherence to

Missile Technology Control Regime (MTCR) and Nuclear Suppliers Group (NSG) guidelines.

(c) The determination referred to in subsection (a) is a determination by the President that supply to India by the United States under an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act is consistent with U.S. participation in the Nuclear Suppliers Group;

(d) Any determinations pursuant to subsection (b) and (c) shall be reported to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, and such report shall describe the basis for the President's determination.

(e) A determination under subsection (b) and (c) shall not be effective if the President determines that India has detonated a nuclear explosive device after the date of enactment of this Act.