

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

I therefore hereby (1) exempt the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection 123 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) subsection 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register*.

**George W. Bush**

**Message to the Congress  
Transmitting the Proposed  
Agreement for Cooperation Between  
the Government of the United States  
of America and the Government of  
India Concerning Peaceful Uses of  
Nuclear Energy**

*September 10, 2008*

*To the Congress of the United States:*

I am pleased to transmit to the Congress, pursuant to section 123 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153) (AEA), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written determination concerning the Agreement, including my approval of the Agreement and my authorization to execute the Agreement, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agree-

ment. (In accordance with section 123 of the AEA, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105-277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the AEA and other applicable law. In my judgment, it meets all applicable statutory requirements except for section 123 a.(2) of the AEA, from which I have exempted it as described below.

The proposed Agreement provides a comprehensive framework for U.S. peaceful nuclear cooperation with India. It permits the transfer of information, non-nuclear material, nuclear material, equipment (including reactors) and components for nuclear research and nuclear power production. It does not permit transfers of any restricted data. Sensitive nuclear technology, heavy-water production technology and production facilities, sensitive nuclear facilities, and major critical components of such facilities may not be transferred under the Agreement unless the Agreement is amended. The Agreement permits the enrichment of uranium subject to it up to 20 percent in the isotope 235. It permits reprocessing and other alterations in form or content of nuclear material subject to it; however, in the case of such activities in India, these rights will not come into effect until India establishes a new national reprocessing facility dedicated to reprocessing under IAEA safeguards and both parties agree on arrangements and procedures under which the reprocessing or other alteration in form or content will take place.

In Article 5(6) the Agreement records certain political commitments concerning reliable supply of nuclear fuel given to India by the United States in March 2006. The text of the Agreement does not, however, transform these political commitments into legally

binding commitments because the Agreement, like other U.S. agreements of its type, is intended as a framework agreement.

The Agreement will remain in force for a period of 40 years and will continue in force thereafter for additional periods of 10 years each unless either party gives notice to terminate it 6 months before the end of a period. Moreover, either party has the right to terminate the Agreement prior to its expiration on 1 year's written notice to the other party. A party seeking early termination of the Agreement has the right immediately to cease cooperation under the Agreement, prior to termination, if it determines that a mutually acceptable resolution of outstanding issues cannot be achieved through consultations. In any case the Agreement, as noted, is a framework or enabling agreement that does not compel any specific nuclear cooperative activity. In the event of termination of the Agreement, key nonproliferation conditions and controls would continue with respect to material and equipment subject to the Agreement.

An extensive discussion of India's civil nuclear program, military nuclear program, and nuclear nonproliferation policies and practices is provided in the Nuclear Proliferation Assessment Statement (NPAS) and in a classified annex to the NPAS submitted to the Congress separately.

The AEA establishes the requirements for agreements for nuclear cooperation, some of which apply only to non-nuclear-weapon states (see AEA, section 123 a.). The AEA incorporates the definition of "nuclear-weapon state" from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which defines it to mean a state that has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967. Therefore India is a non-nuclear-weapon state for NPT and AEA purposes, even though it possesses nuclear weapons. The Agreement satisfies all requirements set forth in section 123 a. of the AEA except the requirement of section 123 a.(2) that, as a condition of continued U.S. nuclear supply under the Agreement, IAEA safeguards be maintained in India with respect to all nuclear materials in all peaceful nuclear activities within its territory, under its jurisdiction, or carried out under its control anywhere

(i.e., "full-scope" or "comprehensive" safeguards).

The Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (the "Hyde Act") established authority to exempt the Agreement from the full-scope safeguards requirement of section 123 a.(2) of the AEA, as well as certain other provisions of the AEA relating to supply under such an agreement, provided that the President makes certain determinations and transmits them to the Congress together with a report detailing the basis for the determinations. I have made those determinations, and I am submitting them together with the required report as an enclosure to this transmittal.

Approval of the Agreement, followed by its signature and entry into force, will permit the United States and India to move forward on the U.S.-India Civil Nuclear Cooperation Initiative, which Indian Prime Minister Manmohan Singh and I announced on July 18, 2005, and reaffirmed on March 2, 2006. Civil nuclear cooperation between the United States and India pursuant to the Agreement will offer major strategic and economic benefits to both countries, including enhanced energy security, an ability to rely more extensively on an environmentally friendly energy source, greater economic opportunities, and more robust nonproliferation efforts.

The Agreement will reinforce the growing bilateral relationship between two vibrant democracies. The United States is committed to a strategic partnership with India, the Agreement promises to be a major milestone in achieving and sustaining that goal.

In reviewing the proposed Agreement I have considered the views and recommendations of interested agencies. I have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved it and I urge that the Congress also approve it this year.

**George W. Bush**

The White House,  
September 10, 2008.

**Remarks at the Dedication  
Ceremony for the 9/11 Pentagon  
Memorial in Arlington, Virginia**  
*September 11, 2008*

Thank you all. Mr. Vice President; Secretary Gates; Madam Speaker; Justices of the Supreme Court; members of my Cabinet, administration; Members of Congress; Admiral Mullen and the Joint Chiefs; Secretary Donald Rumsfeld, a first-responder on September the 11th, 2001; directors of the Pentagon Memorial Fund—Mr. Chairman, congratulations; families and friends of the fallen; distinguished guests; fellow citizens: Laura and I are honored to be with you.

Seven years ago at this hour, a doomed airliner plunged from the sky, split the rock and steel of this building, and changed our world forever. The years that followed have seen justice delivered to evil men and battles fought in distant lands. But each day on this year—each year on this day, our thoughts return to this place. Here, we remember those who died. And here, on this solemn anniversary, we dedicate a memorial that will enshrine their memory for all time.

Building this memorial took vision and determination, and Americans from every corner of our country answered the call. Two young architects in New York City came up with the design. A foundry near St. Louis cast the steel. An Iraqi immigrant in Illinois gave the metal its luster. And citizens from across our Nation made contributions large and small to build this graceful monument.

The Pentagon Memorial will stand as an everlasting tribute to 184 innocent souls who perished on these grounds. The benches here bear each of their names. And beneath each bench is a shimmering pool filled with the water of life, a testament to those who were taken from us and to their memories that will live on in our hearts.

For the families and friends of the fallen, this memorial will be a place of remembrance. Parents will come here to remember children who boarded Flight 77 for a field trip and never emerged from the wreckage. Husbands and wives will come here to remember spouses who left for work one morning and never returned home. People from across our Nation will come here to remem-

ber friends and loved ones who never had the chance to say goodbye.

A memorial can never replace what those of you mourning a loved one have lost. We pray that you will find some comfort amid the peace of these grounds. We pray that you will find strength in knowing that our Nation will always grieve with you.

For all our citizens, this memorial will be a reminder of the resilience of the American spirit. As we walk among the benches, we will remember there could have been many more lives lost. On a day when buildings fell, heroes rose. Pentagon employees ran into smoke-filled corridors to guide their friends to safety. Firefighters rushed up the stairs of the World Trade Center as the towers neared collapse. Passengers aboard Flight 93 charged the cockpit and laid down their lives to spare countless others. One of the worst days in America's history saw some of the bravest acts in Americans' history. We'll always honor the heroes of 9/11. And here at this hallowed place, we pledge that we will never forget their sacrifice.

We also honor those who raised their hands and made the noble decision to defend our Nation in a time of war. When our enemies attacked the Pentagon, they pierced the rings of this building, but they could not break the resolve of the United States Armed Forces. Since 9/11, our troops have taken the fight to the terrorists abroad so we do not have to face them here at home. Thanks to the brave men and women and all those who work to keep us safe, there has not been another attack on our soil in 2,557 days.

For future generations, this memorial will be a place of learning. The day will come when most Americans have no living memory of the events of September the 11th. When they visit this memorial, they will learn that the 21st century began with a great struggle between the forces of freedom and the forces of terror. They will learn that this generation of Americans met its duty. We did not tire; we did not falter; and we did not fail. They will learn that freedom prevailed because the desire for liberty lives in the heart of every man, woman, and child on Earth.

We can be optimistic about the future because we've seen the character and courage of those who defend liberty. We have been