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Indo-US nuclear deal: Law that bars manufacturing here, Indian law on liability

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Written by **Anil Sasi** [Follow](#)
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PM Modi with Sullivan in New Delhi on Monday. (PTI)

While US National Security Advisor Jake Sullivan did not spell out the details with sources suggesting that three entities may be taken off the blacklist, there are currently two key legal barriers to furthering Indo-US nuclear collaboration.

On the American side, a significant impediment is the '10CFR810' authorisation (Part 810 of Title 10, Code of Federal Regulations (Part 810) of the US Atomic Energy Act of 1954), which gives US nuclear vendors the ability to export equipment to



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countries such as India under some strict safeguards, but does not permit them to manufacture any nuclear equipment or perform any nuclear design work here.

This authorisation is a clear impediment from New Delhi's perspective, which wants to participate in the manufacturing value chain and co-produce the nuclear components for atomic power projects being jointly planned to be set up in India, sources said.

On the Indian side, the Civil Liability for Nuclear Damage Act, 2010, which sought to create a mechanism for compensating victims from damage caused by a nuclear accident, and allocating liability and specifying procedures for compensation, has been cited as an impediment by foreign players such as GE-Hitachi, Westinghouse and French nuclear company Areva (now called Orano).

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This is primarily on the grounds that the legislation channelises operators' liability to equipment suppliers with foreign vendors citing this as a reason for worries about investing in India's nuclear sector due to fear of incurring future liability.

Among Sullivan's mandates for the current trip was the prospect of strengthening the innovation alliance under the US-India initiative on Critical and Emerging Technology (iCET). A breakthrough agreement on iCET that addresses the concerns on both sides could pave the way for plans to jointly manufacture nuclear components for any new project capacity being planned for India by deploying American atomic reactors.

This also comes when India is hoping to pitch itself as a credible destination to manufacture nuclear reactors, especially small modular reactors or SMRs that have a capacity of between 30MWe and 300 MWe, cost-effectively and at scale.

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Beijing, too, is actively working on an ambitious plan to seize the opportunity of global leadership in the SMR space, unlike large reactors where China has been a relative latecomer.

Like India, Beijing is seeing SMRs as a tool of its diplomatic outreach in the Global South and that the country could shake up the small reactor industry, just as it has done in the electric vehicle sector.

Though India's civil nuclear programme has expertise in manufacturing smaller reactor types — 220MWe PHWRs (pressurised heavy water reactors) and above – the problem for India is its reactor technology. Based on heavy water and natural uranium, the PHWRs are increasingly out of sync with light water reactors (LWR) that are now the most dominant reactor type across the world.

The Americans, alongside the Russians and the French, are among the leaders in LWR technology.



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A collaborative approach, industry players said, could be a positive for both the US and India, given that both are ill-placed to compete with China on their own. India is faced with technological constraints while the US is seen as being impeded by a relatively high cost of labour and the growing protectionist mood in that country.

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Anil Sasi is National Business Editor with the Indian Express and writes on business and finance issues. He has worked with The Hindu Business Line and Busine [... Read More](#)

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