

Proposal for Nuclear Cooperation with India: A Nonproliferation Disaster

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Ladies and Gentleman:

As we mark the 40th anniversary of the opening for signature of the nuclear Nonproliferation Treaty (NPT), global system for controlling and eliminating nuclear weapons is under severe stress. This presentation addresses a fundamental challenge to the treaty: the July 2005 proposal to carve-out a country-specific loophole in global nonproliferation norms and standards to allow a handful of nuclear supplier states to engage in nuclear cooperation with India, which is one of the few remaining NPT hold-out states.

We believe that each NPT state party has a role and responsibility to actively help ensure that any proposed nuclear cooperation with India, or with any other country outside the NPT, should be fully consistent with the treaty and all NPT Review Conference decisions, as well as United Nations Security Council resolution, the established practices of the IAEA safeguards system, and international nuclear disarmament and nonproliferation agreements, principles, and norms.

This presentation represents the views of more than 130 experts and nongovernmental organizations from 23 countries, including the President of the 1995 NPT Review and Extension Conference. It is based on a letter dated 7 January 2008 that was sent by these organizations and individuals to over 60 governments.

The International Atomic Energy Agency (IAEA) Board of Governors may soon be asked to consider a new “India-specific” safeguards agreement that would cover a limited number of additional “civilian” reactors. Shortly thereafter, the members of the 45-nation Nuclear Suppliers Group (NSG) will be asked to take a position on the Bush administration’s proposal to exempt India from longstanding NSG guidelines that require full-scope IAEA safeguards as a condition of supply. This would open the door for the United States and others to engage in nuclear trade with India for the first time since India detonated a nuclear device in 1974 that used plutonium harvested from a heavy water reactor supplied by Canada and the United States in violation of bilateral peaceful nuclear use agreements.

Contrary to the claims of its advocates, the proposed arrangement fails to bring India further into conformity with the nonproliferation behavior expected of other states. India's commitments under the current terms of the proposed arrangement do not justify making far-reaching exceptions to international nonproliferation rules and norms. Consequently, the proposed arrangement would damage the already fragile nuclear nonproliferation system and set back efforts to achieve universal nuclear disarmament.

We your government and this meeting of NPT states parties has a responsibility to consider the full implications of the proposed agreement and to play an active role to help ensure that this controversial proposal does not:

- further undermine the nuclear safeguards system and efforts to prevent the proliferation of technologies that may be used to produce nuclear bomb material;
- in any way contribute to nuclear proliferation and/or the expansion of India’s nuclear arsenal; or
- otherwise grant India the benefits of civil nuclear trade without holding it to the same

standards expected of other states parties of the NPT.

Please consider the following:

1) India is seeking "India-specific" safeguards over the additional facilities it has declared "civilian". Indian officials insist that the continuation of these safeguards depends upon the continued supply of nuclear fuel from foreign suppliers. India may also assert that it has the option to remove certain "indigenous" reactors from safeguards if foreign fuel supplies are interrupted, even if that is because it has resumed nuclear testing. Such interpretations would be unprecedented and should be rejected whether they might be included in the actual safeguards agreement or accompanying statements.

As part of the final document of the 1995 NPT Review and Extension Conference, all NPT states parties endorsed the principle of full-scope safeguards as a condition of supply. A decision by a subset of the NPT states parties – the 45-nation NSG – to exempt India from this requirement for India would contradict this important element of the NPT bargain.

It should also be noted that the several countries that are parties to the Treaty of Pelindaba and the Treaty of Rarotonga have made further commitments not to provide any source or special fissionable material to any NPT non-nuclear-weapon state unless the recipient state is under comprehensive IAEA safeguards.

We urge your government to actively oppose any arrangement that would give India any special safeguards exemptions or would in any way be inconsistent with the principle of permanent safeguards over all nuclear materials and facilities.

2) India pledged in July 2005 to conclude an Additional Protocol to its safeguards agreement. Given that India maintains a nuclear weapons program outside of safeguards, facility-specific safeguards on a few additional "civilian" reactors provide no serious nonproliferation benefits. States should insist that India conclude a meaningful Additional Protocol safeguards regime before the NSG takes a decision on exempting India from its rules.

3) The United States has put forward a draft NSG guideline that would allow NSG states to continue providing India with nuclear supplies even if New Delhi breaks its nuclear test moratorium pledge. Indian officials say they want changes to NSG guidelines that do not impinge upon their ability to resume nuclear testing. The U.S. proposal on India at the NSG would, in the case of a resumption of nuclear testing by India, make the suspension of nuclear trade optional for NSG members. Such an approach would undercut the international norm against nuclear testing and make a mockery of NSG guidelines. Nuclear supplier states should be immediately terminated if India resumes nuclear testing for any reason.

4) India is seeking exemptions from NSG guidelines and IAEA supply guarantees that would allow supplier states to provide India with a strategic fuel reserve that could be used to outlast any fuel supply cut off or sanctions that may be imposed if it resumes nuclear testing. The U.S.-India bilateral nuclear cooperation agreement includes political commitments to support an Indian strategic fuel reserve and an "India-specific" fuel supply arrangement. If nuclear supplier states should agree to supply fuel to India, they should do so in a manner that is commensurate with ordinary reactor operating requirements.

5) India is seeking and the United States has proposed an NSG guideline that would open the way for other nuclear suppliers to transfer sensitive plutonium reprocessing, uranium enrichment, or heavy water production technology to India even though IAEA safeguards

cannot prevent such technology from being replicated and used in its weapons program. U.S. officials have stated that they do not intend to sell such technology, but other states may. Foreign-assisted enrichment and reprocessing, even if ostensibly confined to the civilian program, could help India in its military programs because Indian technicians could adapt civilian assistance to the weapons program through reverse engineering. So long as India maintains an unsafeguarded weapons program, no such technologies be transferred to India.

6) Absent a decision by New Delhi to halt the production of fissile material for weapons purposes, foreign fuel supplies would allow India not only to continue but also to potentially accelerate the buildup of its stockpile of nuclear weapons materials. This would not only contradict the goal of Article I of the NPT, but it would also foster further nuclear competition between India and Pakistan. India's stated support for a global, verifiable fissile material cut-off treaty is welcome, but insufficient, especially given the decade-long gridlock in Geneva that has held up negotiations on the cut-off.

7) UN Security Council Resolution 1172 calls on India and Pakistan to sign the Comprehensive Test Ban Treaty (CTBT) and stop producing fissile material for weapons, among other nuclear risk reduction measures. Your government is bound by the UN Charter to support the implementation of this resolution and states at this meeting should reiterate their commitment to the prompt realization of its goals.

Conclusion

The initiative for nuclear cooperation with India threatens to undermine the nuclear nonproliferation regime by granting India the benefits of nuclear commerce only accorded to NPT states parties, while securing no meaningful constraint on the growth of its nuclear weapons stockpile or commitment by India to accept the legal equivalent of the obligations set forth in Articles I and VI of the NPT.

We call on all NPT states parties to judge the proposal for nuclear cooperation according to the commitments they have made under the treaty and in the context of NPT Review Conferences, and according to the obligations imposed by UN Security Council resolutions passed in the aftermath of the May 1998 Indian and Pakistani nuclear tests. Rather than create exceptions to the rules of behavior expected of responsible states, NPT states parties should reaffirm the need for universal adherence to the treaty and for nuclear disarmament.

Thank you.

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