

EDWARD J. MARKEY
7TH DISTRICT, MASSACHUSETTS

ENERGY AND COMMERCE COMMITTEE

RANKING MEMBER
SUBCOMMITTEE ON
TELECOMMUNICATIONS AND
THE INTERNET

SELECT COMMITTEE ON
HOMELAND SECURITY

RESOURCES COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-2107

2108 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2107
(202) 225-2836

DISTRICT OFFICES:

5 HIGH STREET, SUITE 101
MEDFORD, MA 02155
(781) 396-2900

188 CONCORD STREET, SUITE 102
FRAMINGHAM, MA 01702
(508) 875-2900
www.house.gov/markey

April 5, 2006

The Honorable Henry Hyde
Chairman
House International Relations Committee
2170 Rayburn Building
Washington, D.C. 20515

The Honorable Tom Lantos
Ranking Democratic Member
House International Relations Committee
B360 Rayburn Building
Washington, D.C. 20515

Dear Chairman Hyde and Representative Lantos:

As the Committee begins its hearings on the Administration's proposal to exempt India from the requirements of U.S. and international nuclear nonproliferation laws and guidelines, I want to call to your attention, and that of the Members of the Committee, the attached memorandum by the Congressional Research Service (CRS).

The CRS memoranda analyzes the Administration's draft proposal to the Nuclear Suppliers Group (NSG) to exempt India from NSG restrictions on supplying countries who have not signed the Nuclear Nonproliferation Treaty (NPT) and who have not agreed to accept full-scope international safeguards. The CRS analysis points out that:

- The Administration's proposal "effectively exempts India from the full-scope safeguards requirement...and broadens the accepted circumstances for exemption beyond those of safety...and grandfathered agreements..."
- "One potential question that may arise is whether the United States will be able to influence its NSG partners in the kinds of exports sent to India. Reportedly, some NSG members in the November 2005 Consultative Group meeting expressed the desire to restrict exports of enrichment and reprocessing, heavy water, highly enriched uranium, and plutonium. The draft decision does not prohibit sensitive exports such as these, not do the NSG guidelines, at present, prevent such exports."
- "Another question that could arise is how the United States and other states will measure their satisfaction in how well India is meeting its nonproliferation and safeguards commitments." CRS notes that there are language differences between the language has proposed for in its draft legislation and what it has proposed to the NSG, nothing that "the practical effect [of these differences] could be that NSG

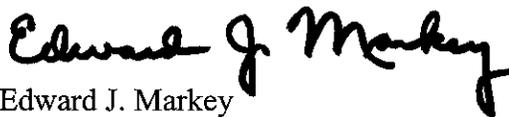
members might be able to export to India before U.S. companies could, even if an NSG decision awaited action by Congress on the draft legislation.”

- CRS also reports that while the draft Administration legislation would cutoff further nuclear exports to India if it conducted a nuclear test, the NSG members would not be bound to follow, noting that “NSG member states would likely not be ‘satisfied’ that India had maintained its nuclear testing moratorium, but a cutoff of exports would be at their discretion. Moreover, if the United States provides fuel assurances to India as outlined in India’s Implementation Document presented to Parliament on March 7, 2006, then one or more states might continue to supply fuel to India, even if the United States could not.”

I urge the Members of the Committee to carefully review the CRS analysis and to consider the questions it raises about this proposed exemption. In addition, I would strongly urge you and other Members of the Committee to carefully review CRS’s earlier analysis of the Administration’s proposed India legislation, which is available at: http://markey.house.gov/index.php?option=com_content&task=view&id=1352&Itemid=56.

Thank you for your consideration. As my staff has previously indicated to the Majority and Minority staffs of the Committee, I am interested in testifying against the Administration’s legislative proposal at its subsequent hearings on this important matter, and I look forward to doing so.

Sincerely,



Edward J. Markey
Member of Congress