

Issues and Questions on July 18 Proposal for Nuclear Cooperation with India

November 18, 2005

United States House of Representatives
Washington, D.C. 200515

Dear Member of Congress,

We are writing to urge you and your colleagues to critically examine the July 18 proposal to allow for "full" U.S.-Indian civilian nuclear cooperation, which would require significant changes to U.S. nonproliferation laws and longstanding international nonproliferation policy that have been supported and advanced by past Republican and Democratic administrations.

We believe that the United States and India can and should expand their ties and common interests as free democracies through expanded cooperation in trade and human development, scientific and medical research, energy technology, humanitarian relief, and military-to-military contacts. In addition, both the United States and India have a vital interest in reducing the global dangers posed by nuclear weapons through effective nonproliferation and disarmament endeavors.

Unfortunately, the proposal for civil nuclear cooperation with India poses far-reaching and potentially adverse implications for U.S. nuclear nonproliferation objectives and promises to do little in the long-run to bring India into closer alignment with other U.S. strategic objectives.

President Bush pledged to seek changes in the Atomic Energy Act (AEA) of 1954 as amended by the 1978 Nonproliferation Act, which bars civilian nuclear cooperation with non-nuclear-weapon states as defined by the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) that do not allow full-scope IAEA safeguards. This includes India. The President also pledged to seek changes to relevant Nuclear Suppliers Group (NSG) guidelines, which make full-scope safeguards a condition of civil nuclear cooperation with non-nuclear-weapon states as defined by the NPT—a U.S. policy objective adopted by NSG consensus during the George H. W. Bush administration.

We have read the statements of the President and administration officials concerning the proposed agreement, but key details needed to help the Congress fully understand the implications of the proposal, in our view, have not yet been provided. Accordingly, we urge that before any action is taken on any legislation sent up by the administration to implement the proposal, Congress should obtain detailed answers to a number of questions. (See attached list.)

Based on what is known, the nonproliferation benefits of the July 18 proposal are vastly overstated by its proponents and the damage to the nonproliferation regime is potentially very high. Contrary to assertions by the administration, the current proposal *would not* bring India sufficiently into conformance with nonproliferation behavior expected of responsible states.

So far, India has pledged only to accept voluntary safeguards over "civilian" nuclear facilities of its choosing. This could allow India to withdraw any nuclear facility from (IAEA) safeguards for national security reasons. Such an arrangement would be purely symbolic and would do nothing to prevent the continued production of fissile material for weapons by India.

The supply of nuclear fuel to India would free-up its existing stockpile and capacity to produce highly enriched uranium and plutonium for weapons. To help ensure that U.S. civilian nuclear cooperation is not in any way advancing India's weapons program, it would be essential to apply permanent, facility-specific safeguards on a mutually agreed and broad list of current and future Indian nuclear facilities involved in civilian activities and electricity production in combination with a cutoff of Indian fissile material production for weapons.

Unfortunately, the communiqué does not call for any additional measures that would constrain India's nuclear arsenal. Specifically, civilian nuclear assistance should not be extended to India until it implements a cessation of the production of fissile material for weapons, which has been adopted by the five original nuclear-weapon states.

In the July 18 communiqué India also pledged to a set of export control measures that it had already committed to or is obligated to pursue under UN Security Council Resolution 1540.

The proposed arrangement could also trigger a significant erosion of the guidelines of the 45-member NSG, which are an important barrier against the transfer of nuclear material, equipment, and technologies for weapons purposes. No civilian assistance should be extended to India without the full concurrence of the NSG and approval of India's safeguards agreement with the IAEA.

Non-nuclear-weapon states have for decades remained true to the original NPT bargain and forsworn nuclear weapons and accepted full-scope IAEA safeguards in return for access to peaceful nuclear technology under strict and verifiable control. Many of these states made this choice despite strong pressure to spurn the NPT and pursue the nuclear weapons path. They might make a different choice in the future if non-NPT members receive civil nuclear assistance under less rigorous terms. The proposed civil nuclear cooperation arrangement may also undermine our ability to win necessary international support for persuading Iran to abandon its fuel cycle plans and to make its nuclear program fully transparent to the IAEA.

On balance, India's commitments under the current terms of the proposed arrangement do not justify making far-reaching exceptions to U.S. law and international nonproliferation norms.

We urge you to consider the full implications of the proposed agreement for cooperation between the United States and India, and pursue additional stipulations that might result in a positive outcome to U.S. and international security. Congress must also ensure it retains the authority to review whether the terms of any such arrangement are being implemented and take appropriate action if they are not.

Building upon the already strong U.S.-Indian partnership is an important goal, and we remain convinced that it can be achieved without undermining the U.S. leadership efforts to prevent the proliferation of the world's most dangerous weapons.

Sincerely,

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