

Congress of the United States

Washington, DC 20515

September 12, 2008

The Honorable Howard L. Berman
Chairman
House Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Berman:

Late Wednesday, President Bush submitted to Congress the proposed Nuclear Cooperation Agreement between the United States and India.

As you know, many questions remain concerning whether or not the so-called 123 Agreement, the India-IAEA Safeguards Agreement, the Nuclear Suppliers' Group waiver, and the various Presidential certifications and reports, meet the requirements of, and are consistent with, the Atomic Energy Act and the Hyde Act. The NSG waiver for India that was approved September 6th, 2008, clearly does not incorporate the restrictions and conditions on U.S. nuclear trade mandated by the Hyde Act, such as the requirement that nuclear cooperation be immediately halted if India conducts a nuclear test. We urge you to take all necessary time to carefully review the president's submission, hold hearings, and seek answers to any outstanding questions. Furthermore, we urge you to take whatever steps are necessary to bring this proposal into full conformity with the Atomic Energy Act, the Hyde Act of 2006, and international standards and practices, as you described in your August 5th, 2008, letter to Secretary Rice.

President Bush is seeking hurried Congressional approval of this unprecedented proposal in the waning days of the 110th Congress. As you know, the Atomic Energy Act requires that this proposal sit before Congress for 30 days of continuous session, and that the relevant committees hold hearings, before a vote may be held. However, as of today there are only 10 days of session remaining before our date of targeted adjournment on September 26, 2008. Therefore, honoring President Bush's request for Congressional approval of the Nuclear Cooperation Agreement this year could only be accomplished by waiving U.S. law through an unorthodox procedure.

We strongly oppose rushing consideration of the proposal to adhere to an imaginary clock, since the process of full Congressional oversight and deliberation necessarily and

properly requires a significant investment of time. We urge you to insist that this unprecedented agreement be subject to full and complete review by the Congress, even if that necessitates deferring any vote on the Agreement until the next Congress.

Sincerely,


Edward J. Markey


Ellen O. Tauscher


John M. Spratt

Cc: The Honorable Nancy Pelosi
Speaker
United States House of Representatives
H-232, US Capitol
Washington, DC 20515