

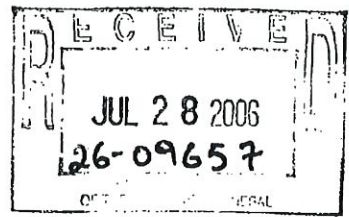
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Disarmament

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Note to the Secretary-General

**IMPLICATIONS OF THE U.S./INDIA NUCLEAR DEAL**



Summary

On 26 July, the US House of Representatives approved a bill to allow implementation of a U.S./Indian agreement for nuclear cooperation, announced in 2005. The Senate will act on its own bill later this year and, by all indications, Congress will ultimately approve the deal, which IAEA Director General ElBaradei has publicly endorsed. Many aspects of this deal, however, require cautious assessment, including its potential impact on the global nuclear non-proliferation regime and its effect on the India/Pakistan arms race. This Note, submitted for your information only, provides some details and explores their implications.

The deal in context

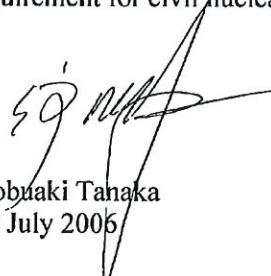
1. On 18 July 2005, President Bush and Indian Prime Minister Singh issued a Joint Statement indicating that the U.S. would ask Congress to "adjust U.S. laws and policies" to allow nuclear cooperation between the two countries, an accord that would leave much of India's nuclear programme outside of international safeguards. At stake is the future of a multilateral standard that makes nuclear cooperation with "non-nuclear-weapon states" (which legally includes India) contingent upon their agreement to place all of their civil nuclear materials under IAEA safeguards. The importance of such "comprehensive" safeguards, which derive from the NPT, was most recently stressed in General Assembly Resolution 60/65 (adopted by a vote of 168-2-7). Responding to IAEA Director General ElBaradei's support for the deal, opponents have just released a joint letter (attached) criticizing his stance, declaring that the deal "threatens to undermine the nonproliferation regime" and "risks fueling a nuclear arms race in Asia", noting specifically possible reactions by China and Pakistan. The letter summarizes in a unique manner the downsides of this deal.
2. The United States has stated that the deal will advance its strategic relationship with India, while also helping to combat global warming and to promote peaceful nuclear commerce – important given the sluggish US nuclear reactor export market. Yet in pursuing such priorities, the deal would also put several non-proliferation issues on the backburner, even though the agreement would place more of India's civilian reactors under IAEA safeguards (see attached letter) – 14 of India's 22 power reactors would be safeguarded.
3. The deal comes at a time when India and Pakistan are expanding their abilities to produce fissile materials. On 24 July, a US research group issued a report on Pakistan's progress in constructing a nuclear reactor that will be able to produce enough plutonium for 40-50 bombs each year it operates. The report warned that "South Asia may be heading for a nuclear arms race that could lead to arsenals growing into the hundreds of nuclear weapons, or at a minimum vastly expanded stockpiles of military fissile material."
4. South Asia's nuclear arms race also encompasses a rivalry in acquiring diverse means to deliver such weapons. The U.S. has recently agreed to supply 36 F-16 aircraft to Pakistan (an earlier F-16 deal had been frozen due to U.S. nuclear sanctions legislation) and India is reportedly interested in acquiring 126 of such planes later this year. The F-16 is widely recognized as nuclear-capable. Both countries are also engaging in repeated tests of nuclear-

capable missiles. On 11 June, India tested its nuclear-capable Prithvi missile, with a range suitable for use against Pakistan. On 9 July, India tested its nuclear-capable Agni III -- a medium-range missile that could reach targets in China. The implications of this arms race thus may well extend beyond the Subcontinent.

#### Global Implications

5. Regional or international – the implications of these developments are profound. The Conference on Disarmament has been seeking for years to achieve a consensus that would allow the start of negotiations on a global fissile material cut-off treaty – continued production of such material by India and Pakistan would only further complicate this process. Also, other countries with advanced peaceful nuclear programmes – including Brazil, Argentina, Germany, South Africa, and Japan – may, as a result of this special status for India, subsequently conclude that their own sincere efforts to implement their comprehensive NPT safeguards commitments have become more of a commercial or political liability. They may decide to pursue more vigorously efforts to acquire their own independent nuclear fuel-cycle capabilities (notably uranium enrichment and nuclear reprocessing), thus posing new difficulties for the IAEA's longstanding efforts to advance "multilateral nuclear approaches" for undertaking such sensitive activities.

6. The UN does not have to comment on bilateral nuclear agreements that have not yet even been finalized, nor would it be productive to do so. This particular deal, moreover, has to be scrutinized further and approved by the Nuclear Suppliers Group, which adopted the comprehensive safeguards standard over a decade ago as a requirement for civil nuclear commerce.



Nobuaki Tanaka  
28 July 2005

Drafted by: R. Rydell

cc: Mr. Malloch Brown  
Ms. Hoppe

## AN OPEN LETTER TO

Mohamed ElBaradei  
Director-General  
International Atomic Energy Agency  
Vienna, Austria  
July 24, 2006

Dear Dr. ElBaradei,

We are writing to take issue with your personal statements concerning the controversial proposal to exempt India from certain U.S. nuclear trade standards and existing international civil nuclear trade rules, which is now being debated by Congress.

We share your desire to bring India further into the nonproliferation regime and universalize international safeguards. But, contrary to your assertions, the U.S.-Indian initiative as currently composed fails to accomplish either goal. Indeed, the deal threatens to undermine the nonproliferation regime by granting India the benefits of civil nuclear commerce, while securing no meaningful constraint on the growth of India's nuclear weapons stockpile or requiring India to accept the equivalent of the nonproliferation obligations of Articles I and VI of the nuclear Nonproliferation Treaty (NPT). Given this reality, the limited amount of additional safeguards that India has pledged to accept does not limit India's nuclear weapons program and significantly diminishes the concept of verification while placing an added burden on the already stretched resources of the International Atomic Energy Agency (IAEA).

You have eloquently and forcefully spoken out on the necessity of devaluing nuclear weapons and working toward nuclear disarmament if humankind is to escape the "prevailing sense of insecurity" that afflicts the world today. In the past, you have condemned nuclear weapons possessors for their "sluggishness in nuclear disarmament." To help remedy this collective failure, you have recommended that they ratify the Comprehensive Test Ban Treaty (CTBT) and cease the production of fissile material for nuclear weapons pending conclusion of a verifiable fissile material cutoff treaty (FMCT).

However, your June 14 editorial in The Washington Post ignores the reality that India is moving in the opposite direction and is defying UN Security Council Resolution 1172, which calls upon India, as well as Pakistan, to halt its nuclear weapons development and production program. Furthermore, your assertion that the U.S.-Indian deal "does not add to or detract from India's nuclear weapons program, nor does it confer any 'status,' legal or otherwise, on India as a possessor of nuclear weapons" is seriously misleading.

Preserving its nuclear weapons prerogatives was New Delhi's overarching objective in its negotiations on the nuclear trade deal with the United States. India's success is evident in a March 2 civilian-military separation plan that exempts eight current and future Indian thermal nuclear power reactors, the CIRUS research reactor, and its two existing fast-breeder reactors from safeguards. In addition, India is under no obligation to submit any future reactors it builds to international oversight. It is reportedly planning to build a new military plutonium production reactor.

The deal, if implemented, would effectively grant India highly sought-after access to nuclear technology and fuel only accorded to states in full compliance with global nonproliferation standards. It would also treat India in much the same way as the five original nuclear-weapon states by exempting it from meaningful international nuclear inspections. It is a virtual endorsement of India's nuclear weapons status. This outcome should not be unconditionally accepted, but critically appraised.

The possible supply of nuclear fuel to India would, in fact, add to its nuclear weapons capabilities by freeing-up its existing and limited domestic capacity to produce highly enriched uranium and

plutonium exclusively for weapons. To help ensure that U.S. civilian nuclear cooperation would not in any way assist India's weapons program, it is essential that India fulfill Prime Minister Manmohan Singh's July 18, 2005 pledge to "assume the same responsibilities and practices as other leading countries with advanced nuclear technology, such as the United States" by halting the production of fissile material for weapons purposes. The United States, France, Russia, and the United Kingdom have all stopped such production, and China is also believed to have stopped fissile material production for weapons.

But unlike the five original nuclear-weapon states, India has not even signed the CTBT and refuses to halt its production of nuclear bomb materials. Washington and New Delhi currently disagree about whether an FMCT can or should be verified. For this and other reasons, the conclusion of talks on an FMCT at the Conference on Disarmament remains a distant prospect. Worse still, New Delhi is seeking measures in negotiations with the United States on a draft nuclear cooperation agreement that would grant India an assured nuclear fuel supply even if India were to break its unilateral test moratorium pledge.

The U.S.-Indian deal is not an effective way to restructure the NPT system and would lead to the further unraveling of the basic security bargain established between the nuclear haves and have-nots.

In your public statements and Washington Post editorial, you also overlook the fact that the proposed arrangement could also trigger a significant erosion of the guidelines of the 45-member Nuclear Suppliers Group (NSG), which are an important barrier against the transfer of nuclear material, equipment, and technologies for weapons purposes. To harmonize global safeguards standards, the NSG agreed in 1992 by consensus to restrict trade with states, such as India, that do not accept full-scope IAEA safeguards. NPT member states agreed to support the same standard at the 1995 Review and Extension Conference. As you know, legitimate efforts to improve the safety of India's nuclear reactor operations already are permitted under current NSG rules.

Moreover, we believe that in its present form the proposed deal risks fueling a nuclear arms race in Asia. China and Pakistan might respond to any perceived increase in India's nuclear weapons capability by ramping up their nuclear weapons programs.

Throughout your tenure as director-general, you have consistently argued for universal approaches to addressing the dangers posed by nuclear weapons and against perpetuating double standards governing nuclear weapon haves and have-nots. Creating far-reaching exemptions to international rules for India betrays these two principles, which you have tirelessly promoted.

Quite simply, India should not be eligible for full international civil nuclear assistance until it meets core nonproliferation standards and practices expected of other states. It is surprising and disappointing that the IAEA director-general would suggest otherwise.

Sincerely,

Ralph Earle II Former Director, U.S. Arms Control and Disarmament Agency

Amb. Robert Grey, Director, Bipartisan Security Working Group, and former U.S. Representative to the Conference on Disarmament

John D. Holum, Former Undersecretary of State for Arms Control and International Security Affairs and former director of the U.S. Arms Control and Disarmament Agency

Rebecca Johnson Director, Acronym Institute

Spurgeon M. Keeny Former Deputy Director, U.S. Arms Control and Disarmament Agency