

Ambassador Rüdiger Lüdeking  
Auswärtiges Amt  
Werdersche Markt 1

11011 Berlin

January 17<sup>th</sup> 2008

**Re: Fix the Proposal for Nuclear Cooperation with India**

Dear Ambassador Lüdeking,

In the coming weeks the International Atomic Energy Agency (IAEA) Board of Governors will likely 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.

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 are writing to urge your government to consider the full implications of the proposed agreement and to play an active role in proposing and supporting measures that would 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 nuclear Non-Proliferation Treaty (NPT).

Because the NSG and IAEA traditionally operate by consensus, your government has a pivotal role to play. Please consider the following:

**1) India is seeking unprecedented "India-specific" safeguards over the additional facilities it has declared “civilian”. Such safeguards could allow India to cease IAEA scrutiny if fuel supplies are cut off because it renews nuclear testing.** Indian officials suggest that they will seek safeguards that are contingent 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 proposals 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 the 45-nation NSG to exempt India from this requirement for India would contradict this important element of the NPT bargain.

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. If the NSG members agree by consensus to exempt India from the full-scope safeguards standard, they should in the very least clarify that all nuclear trade by NSG member states shall immediately cease 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 NSG 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.** 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. U.S. officials have stated that they do not intend to sell such technology, but other states may. Virtually all NSG states support proposals that would bar transfers of these sensitive nuclear technologies to non-NPT members and should under no circumstances endorse an NSG rule that would allow the transfer of such technology 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. Has your government conducted an independent assessment of the impact of foreign fuel supplies on India’s weapons production capacity and the security balance in South Asia?

**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.** Your government is bound by the UN Charter to support the implementation of this resolution. Before India is granted a waiver from the NSG's full-scope safeguards standard, it should join the other original nuclear weapon states by declaring it has stopped fissile material production for weapons purposes and, like the 177 other states that have signed the CTBT, make a legally-binding commitment to permanently end nuclear testing. India's verbal commitment to support negotiations of a global verifiable fissile material cut off treaty is a hollow gesture given the fact that states have failed to initiate negotiations on such a treaty for over a decade.

### **Conclusion**

If your government is truly dedicated to the goal of stopping the spread of nuclear weapons, ending nuclear arms races, and strengthening rules governing the transfer of nuclear material and technology, it will insist upon these and other vital nonproliferation measures. We look forward to your responses to our questions and recommendations.

Sincerely,

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*Additional endorsements continue on the following pages ...*

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# Fix the Proposal for Nuclear Cooperation with India

*Endorsements continued ...*

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