



US-India Deal Working Group

Chancellor Angela Merkel
Bundeskanzleramt

11044 Berlin

August 14, 2007

Dear Chancellor Merkel,

We write to you on behalf of ABOLITION 2000, a global network of over 2000 organizations in more than 90 countries working for a global treaty to eliminate nuclear weapons, to share our concern about the nuclear agreement that has been negotiated between the US and India. We hope that, like us, your government will consider the deal to be deeply flawed and reject it.

As you know, the United States and India recently finalized details of a proposed agreement that will exempt India from long-standing restrictions on nuclear trade. For this deal to proceed, India must negotiate a safeguards agreement with the International Atomic Energy Agency (IAEA) and the 45 member-states of the Nuclear Suppliers Group (NSG) also must decide to grant India a special exemption from their rules governing nuclear trade.

Your government is represented on both the Board of Governors of the IAEA and on the NSG, so it is in a position of great responsibility. We urge you to ensure that there is no rush to judgment in the negotiation of a safeguards agreement between India and the IAEA or at the NSG. The goal of members states in both bodies should be to ensure that the US-India deal comply fully with current international nuclear disarmament and non-proliferation agreements, principles, and norms.

In the case of the NSG, all 45 member countries have a power of veto over implementation of the US-India nuclear agreement. For the reasons outlined below we urge you to exercise that power. Furthermore, we believe that the deal is of such consequence for the international non-proliferation regime that the final decision on this matter should be made by the NPT parties at the next Review Conference, in 2010. The currently applicable consensus within the NPT framework is that countries should not receive nuclear assistance unless they have made “internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices”. (See paragraph 12 of the ‘Principles and objectives for nuclear nonproliferation and disarmament’ Decision 2, 1995 NPT Extension Conference). We urge you to make it clear that any effort to force a decision in the NSG prior to a new consensus among the NPT parties will be opposed by your government.

Background and Analysis

The text of the agreement (referred to as a “Section 123” agreement after the section in the US Atomic Energy Act) was released on 3 August 2007. Key features are an unusual arrangement for a dedicated reprocessing facility and U.S. fuel supply assurances to India. In both areas the proposed agreement grants preferential treatment to a non-NPT party. These attempts to finesse concerns

about compliance with US law (the Atomic Energy Act and the Hyde Act) must not be allowed to blind the governments of other countries to the broader concerns discussed below.

Since its nuclear test in 1974, India has been subject to sanctions on trade in nuclear technology. After India and Pakistan conducted nuclear tests in 1998, the United Nations Security Council passed a resolution (SC1172) condemning the tests. The “Section 123” agreement violates SC1172, which calls on India and Pakistan “immediately to stop their nuclear weapon development programs, to refrain from weaponization or from the deployment of nuclear weapons, to cease development of ballistic missiles capable of delivering nuclear weapons and any further production of fissile material for nuclear weapons.” The Resolution also “encourages all States to prevent the export of equipment, materials or technology that could in any way assist programs in India or Pakistan for nuclear weapons.” In the absence of India halting the production of fissile material for weapons, the supply of uranium to India by the international community for the reactors on its civilian list would still free up India's limited supply of indigenous reactor fuel for the sole purpose of fueling plutonium production reactors, thus indirectly assisting India's nuclear weapons program. (2)

The Section 123 agreement would allow for the transfer of sensitive reprocessing technology under certain circumstances. But the supply to India of equipment that may also be used in reprocessing, uranium enrichment, and heavy water production facilities risks that such equipment may be replicated and used in India's unsafeguarded nuclear weapons program. Such cooperation, if allowed by the NSG, could violate the original five Nuclear-Weapons States' NPT obligations under Article I of the NPT, which prohibits nuclear-weapon states from assisting non-nuclear-weapon states in any way to acquire nuclear weapons.

Despite developing and testing nuclear weapons outside the framework of the NPT, India is getting more favorable treatment than any NPT state with which the United States has a nuclear cooperation agreement. The Arms Control Association made the following comment in a Background Memo (3) issued in response to the August 3 release of the text of the “Section 123” agreement:

“The U.S.-India nuclear trade deal would grant India benefits not available to the non-nuclear weapon states parties to the nuclear Nonproliferation Treaty without even requiring it to meet all of the responsibilities expected of the five original nuclear-weapon states.

“For example, unlike China, France, Russia, the United Kingdom, and the United States, India has refused to sign the 1996 Comprehensive Nuclear Test Ban Treaty and it has refused unilaterally to declare a halt to the production of fissile material for weapons -- as France, Russia, the United Kingdom, and United States have all done.”

There is an immediate risk that the US-India nuclear agreement will fuel a nuclear arms race between India and Pakistan. Pakistan's National Command Authority (NCA), chaired by President Pervez Musharraf, has declared that “In view of the fact the [U.S.-India] agreement would enable India to produce a significant quantity of fissile material and nuclear weapons from unsafeguarded nuclear reactors, the NCA expressed firm resolve that our credible minimum deterrence requirements will be met.” This suggests a South Asian fissile material race may be imminent.

Exempting India from international rules governing trade in nuclear technology threatens to undermine the nuclear non-proliferation order and thereby the prospects for global nuclear disarmament. Regardless of claims that the exemption will apply only to India, inevitably other nuclear proliferators will expect the same treatment. There is a danger that Pakistan, Israel and North-Korea, and possibly other countries in future, will see this as an opportunity for them to lay

similar claims. For this and all the above reasons we urge you to reject this ill-conceived nuclear agreement.

Philip White, US-India Deal Working Group Coordinator
Steven Staples, Global Secretariat to Abolition 2000

Notes and References

1. ABOLITION 2000's US-India Deal Working Group was established at ABOLITION 2000's Annual General Meeting held during the May 2007 NPT PrepCom in Vienna. ABOLITION 2000 lobbied governments at the NPT PrepCom.
2. Zia Mian, A.H. Nayyar, R. Rajaraman and M. V. Ramana, Fissile Materials in South Asia: The Implications of the US-India Nuclear Deal, International Panel on Fissile Materials, Research Report #1, 11 July 2006
http://www.fissilematerials.org/ipfm/site_down/ipfmresearchreport01.pdf
3. Arms Control Association Background Memo, "U.S.-Indian Nuclear Agreement: A Bad Deal Gets Worse", August 3, 2007
http://www.armscontrol.org/pressroom/2007/20070803_IndiaUS.asp

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<http://cnic.jp/english/topics/plutonium/proliferation/usindia.html>