

## 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  
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