

PERMANENT MISSION OF JAPAN
VIENNA

Andromeda Tower
Donau-City-Strasse 6
A-1220 Vienna
Austria

Telephone: (+43) (1) 260 63-0
Facsimile: (+43) (1) 263 6750

NSG CONFIDENTIAL

NSG(11)30

NUCLEAR SUPPLIERS GROUP

Point of Contact Note

**United States Communication – “Food for Thought” Paper on Indian NSG
Membership**

At the request of Mr. Richard J.K. Stratford, Director, Nuclear Energy, Safety & Security Affairs, United States of America, the POC distributes herewith his letter introducing a U.S. “Food for Thought” paper on the question of Indian NSG Membership for PG consideration and feedback prior to the June 2011 CG and Plenary meetings in Noordwijk, the Netherlands.

23 May 2011

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United States Department of State

Washington, D.C. 20520

May 20, 2011

Mr Ichiro Ogasawara
Permanent Mission of Japan
Andromeda Tower
Donnau City Str. 6
A 1220 Vienna

Dear Mr. Ogasawara:

As Participating Governments (PGs) are aware, President Obama announced on November 8, 2010 U.S. support for admitting India into the Nuclear Suppliers Group (NSG). At the November 2010 NSG Consultative Group (CG) meeting the United States promised to provide a "Food for Thought" paper on the question of Indian NSG membership for PG consideration and feedback prior to the June 2011 CG and Plenary meetings at Noordwijk. Enclosed is the promised Food for Thought paper. I would greatly appreciate your circulation of this paper to all NSG PGs.

Sincerely,

Richard J.K. Stratford

Director

Nuclear Energy, Safety & Security Affairs

Enclosure: as stated.

cc. Ambassador Jennifer Macmillan
NSG Chair
Head of Fiji, Polynesia and Micronesia Unit
Pacific Division
Ministry of Foreign Affairs and Trade
Wellington, New Zealand

Ambassador Piet de Klerk
Deputy Permanent Representative of the Netherlands
to the United Nations in New York

Indian Membership in the NSG

As Participating Governments (PGs) are aware, President Obama announced on November 8, 2010 U.S. support for admitting India into the Nuclear Suppliers Group (NSG). The United States believes that India has demonstrated responsible nonproliferation and export control practices and the ability and willingness to contribute substantially to global nonproliferation objectives.

The Noordwijk Plenary week in June will provide the Regime's first opportunity to discuss collectively whether and/or how to go about admitting India into the NSG. The United States looks forward to a discussion of the merits of India's admission to the NSG, as well as how this could be achieved. We hope that an introductory discussion in the Consultative Group will provide valuable information on the most productive path to take in considering the admission of India and on the issues that must be addressed – information that can support our further deliberations.

Current Criteria

As with all NSG decisions, membership in the Regime is granted by a consensus decision of all current Participating Governments. Participation decisions are made on a case-by-case basis, with each Partner deciding for itself whether to support a particular candidacy. The admission of one country does not set a precedent for others. Additionally, the Regime's approach to membership has been framed in section 7 of the NSG Procedural Arrangements, in which it is noted that a non-PG "may be invited to join the NSG by a consensus decision of the NSG Participating Governments."

The NSG has agreed to a common set of factors that should be considered by PGs when dealing with the possible acceptance of a government as a new PG. These factors, as set forth in the Procedural Arrangement, state that a new PG should be able to supply the items on the NSG control lists; adhere and act in accordance with the Guidelines; have in force a legally-based domestic export control system which gives effect to the commitment to act in accordance with the Guidelines; be supportive of international efforts towards the non-proliferation of weapons of mass destruction and of their delivery vehicles; and be a party to and in full compliance with the obligations of the NPT, the Treaties of Pelindaba, Rarotonga, Tlatelolco or Bangkok, or an equivalent international nuclear non-proliferation agreement, and as appropriate have in force a full-scope safeguards agreement with the IAEA.

Discussion

There are basically two ways that the admission of India to the NSG could be accomplished. The first is to “evolve the criteria for admission,” i.e. to revise the “Factors to be Considered” as set forth in the Procedural Arrangement, in a manner that would accurately describe India’s situation. The second is to recognize that the factors “should be considered by Participating Governments” and are not mandatory criteria that must be met by any proposed candidate for NSG membership. The Procedural Arrangement does not require that a candidate meet all of the stated criteria. For that reason, NSG PGs could simply take a decision by consensus to admit India based on India’s support for the nuclear nonproliferation regime and its nonproliferation behavior.

The United States views the criteria in the Procedural Arrangement as essentially compatible with the outcome we seek. Our interest in permitting the full membership of countries that have demonstrated responsible nonproliferation and export control practices and the ability and willingness to contribute substantially to global nonproliferation objectives is already reflected in the factors for consideration. Specifically, we refer to:

-- “Be supportive of international efforts towards the non-proliferation of weapons of mass destruction and of their delivery vehicles,” and

-- “Have in force a legally-based domestic export control system which gives effect to the commitment to act in accordance with the Guidelines.”

The additional factors for consideration adopted as part of the Dual-Use Arrangement are also relevant. (Specifically, the Memorandum of Understanding (MOU) which was originally intended to implement INFCIRC/254 Part 2, and has been viewed as applying to INFCIRC/254/Part 1.) The factors for consideration in the MOU that address a candidate’s obligation to have made a legally binding non-proliferation commitment, and have the ability to supply NSG-listed items stem from the group’s desire for “like-minded” partners. Given the exchange of highly sensitive technical data, commercial information, and frankness of the work of the NSG, the group wanted to ensure that the issue of participation in the NSG was focused on candidates that shared the same goals and commitments to the peaceful use of nuclear energy.

Under current circumstances, the United States believes that NSG PGs would be justified in assessing India to be a “like-minded” partner based on the steps India has taken and will take to separate its military and civil nuclear programs, to place additional facilities under IAEA safeguards, to participate actively in nuclear nonproliferation-related activities, and its responsible export control policies and enforcement. We recognize that the admission of India to the NSG is a complex issue and will require a thorough discussion before PGs may be ready to take a decision.

Conclusion

We would welcome Participating Governments’ feedback on this discussion paper and/or other views on participation prior to, at, or after the June 20-24 meetings in the Netherlands. We offer the paper as “food-for-thought,” and we plan to seek an introductory discussion in the Consultative Group (CG). The results of that discussion will be reported to the Plenary in the CG Chair’s Report to the Plenary.

The United States hopes Partners will give priority attention to discussing the merits of admitting India to the NSG, and we look forward to beginning a discussion in Noordwijk.