

Revised U.S. Proposal for India-Specific Exemption from Nuclear Suppliers Group Is Inadequate and Irresponsible

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Note for Reporters by Daryl G. Kimball (202-463-8270 x107)
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Today, the Arms Control Association (ACA) obtained a copy of the revised U.S. proposal to exempt India from existing nuclear trade restrictions maintained by the 45-member Nuclear Suppliers Group (NSG). The proposed rule change would allow India to acquire nuclear technology and material previously off limits to it because of India's misuse of past nuclear imports designated for peaceful purposes to conduct a nuclear explosion in 1974 and refusal to allow full-scope international safeguards on its nuclear complex.

[The text of the revised proposal is available here.](#) ACA's preliminary analysis follows below.

Background

At a special Aug. 21-22 meeting of the NSG, the Bush administration proposed an India-specific exemption from NSG guidelines, which currently require full-scope IAEA safeguards as a condition of nuclear supply. Bowing to Indian demands, the Bush team called for a "clean" and "unconditional" waiver that would have allowed unrestricted nuclear trade with India at the discretion of each NSG member state. [See here the text of the earlier proposal](#) .

To their credit, many NSG states essentially said "no thanks" and proposed more than 50 amendments and modifications to the U.S. proposal. Those recommendations aimed to establish some basic but vitally important restrictions and conditions on nuclear trade with India. Many of those amendments track with the restrictions and conditions established in 2006 U.S. legislation regulating U.S. nuclear trade with India, including the termination of nuclear trade if India resumes testing. That U.S. law also significantly restricts transfers of uranium-enrichment and spent fuel reprocessing technologies, which can be used to produce both nuclear fuel for reactors and nuclear material for bombs.

U.S. and Indian officials responded Aug. 31 with a new draft waiver. The NSG is due to reconvene Sept. 4-5 in Vienna to discuss the revised U.S. proposal. Traditionally, the group makes decisions by consensus. [See here the NSG's existing guidelines](#) for the export of nuclear material, equipment, and technology.

The Revised Proposal Is Irresponsible and Should Be Rejected

The revised U.S. proposal does not incorporate any meaningful adjustments or concessions and is essentially the same as the earlier draft proposal.

Apparently, New Delhi and Washington expect that the 15 plus states who are seeking meaningful restrictions and conditions and a regular review mechanism on nuclear trade with India to be satisfied with a "statement from the chair" to substitute for a rationale NSG policy on key issues. The revised proposal also contains the following two cosmetic adjustments:

- a new paragraph that says all governments participating in the NSG shall inform each other

on what bilateral cooperation they are pursuing with India after the exemption is approved. This is being presented as an alternative to several proposals from NSG states for a regular review mechanism for nuclear trade with India. This would be mildly useful ahead of an NSG decision, but adds nothing to what the NSG is already authorized to do and would do nothing to help hold India accountable to nonproliferation and disarmament commitments.

- a paragraph that says participating governments can call an extraordinary consultation within the NSG “if circumstances have arisen which require consultations.” This is being pitched as a response to a possible Indian nuclear test. But in reality, this doesn’t do anything more than what is already in the NSG guidelines (paragraph 16) that allow for a special meeting of NSG states in the event of extraordinary events, including a nuclear test.

Given that the Indian government has shown so little flexibility and given that the revised proposal was distributed only days before the next NSG meeting, it is highly unlikely the NSG will reach a decision this week.

Although acknowledging India’s legitimate interest in diversifying its energy options, responsible, like-minded countries, including Austria, Ireland, Japan, the Netherlands, New Zealand, Norway, and Switzerland, correctly recognize that the Bush approach is deeply flawed and would effectively end the NSG as a meaningful entity. It is vital that these and other states stand their ground.

Why? Any India-specific exemption from NSG guidelines would erode the credibility of NSG efforts to ensure that access to peaceful nuclear trade and technology is available only to those states that meet global nuclear nonproliferation and disarmament standards.

Contrary to the Orwellian claims of its proponents, the deal would not bring India into the nonproliferation mainstream. Unlike 179 other countries, India has not signed the Comprehensive Test Ban Treaty. It also continues to produce fissile material and expand its nuclear arsenal. As one of only three states never to have signed the nuclear Nonproliferation Treaty (NPT), it has not made a legally binding commitment to pursue nuclear disarmament.

The most recent U.S. proposal should be flatly rejected as unsound and irresponsible. To be effective, NSG guidelines must establish clear and unambiguous terms and conditions for the initiation and possible termination of nuclear trade.

At a minimum, NSG states should:

- establish a policy that if India resumes nuclear testing or violates its safeguards agreements, trade involving nuclear items with India shall be terminated and unused fuel supplies returned;
- expressly prohibit any transfer of reprocessing, enrichment, or heavy-water production items or technology;
- regularly review India’s compliance with its nonproliferation obligations and commitments; and
- require as a condition for nuclear trade that India join with four of the five original nuclear-weapon states in declaring that it has stopped fissile material production and require that India to transform its nuclear test moratorium pledge into a legally binding commitment. Unfortunately, India has rejected previous calls to take these important nuclear restraint measures.

Some Indian officials have threatened they may walk away from the deal if the NSG establishes even these most basic requirements. If that occurs, so be it.

The Indian nuclear deal would be a nonproliferation disaster, especially now. The current U.S. proposal threatens to further undermine the NPT, the nuclear safeguards system, and efforts to prevent the proliferation of sensitive fuel-cycle technologies. Absent curbs on Indian nuclear testing and fissile material production, it would also indirectly contribute to the expansion of India’s nuclear arsenal with adverse consequences for the nuclear arms race in Asia.

For those world leaders who are serious about advancing nuclear disarmament, holding all states to their international commitments, and strengthening the NPT, it is time to stand up and be counted.

Congress, the NSG, and the U.S.-Indian Nuclear Cooperation Agreement

Several Democratic and Republican members of Congress have urged the Bush administration not to support any NSG exemption for India that does not conform to the restrictions and conditions on nuclear trade established by the 2006 legislation, known as the Hyde Act. Even if the NSG allows civil nuclear trade with India, Congress must still approve the proposed U.S.-Indian nuclear cooperation agreement and it may seek to amend or attach conditions on its implementation.

On August 5, the Chair of the House Committee on Foreign Affairs, Rep. Howard Berman (D-Calif.) wrote U.S. Secretary of State Condoleezza Rice urging “the President should withhold support from any proposed exemption from India in the NSG guidelines that is not fully consistent with the Hyde Act and that does not incorporate a number of other key provisions, including: the immediate termination of all nuclear commerce by NSG states if India detonates a nuclear explosive device or if the IAEA determines that India has violated its safeguards commitments ...” ([The full text of the Berman letter is available from here.](#))

Berman goes on to warn Rice that “any effort to consider the [U.S.-Indian nuclear cooperation] agreement outside of the requirements of current law will be impossible if the Administration accepts an NSG exemption that fails to include the Hyde Act conditions.”

It is clear that the current U.S. proposal to exempt India from NSG guidelines fails to include the Hyde Act conditions and restrictions.

Attachment

Size



[Revised NSG Draft for Sept 4-5 Mtg.pdf](#)

393.44 KB

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