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Getting a Non-Proliferation Payoff from India

By Ernie Regehr

When mainstream candidates for the U.S. presidency begin inserting calls for a world free of nuclear weapons into their stump speeches, you know nuclear disarmament is finally making it as a topic for polite company.

But it is traditional disarmament champions like Canada and New Zealand who will be most severely tested when the United States puts India on the agenda of the Aug. 21 meeting of the Nuclear Suppliers Group (NSG).

India is looking for unfettered access to the global civilian nuclear market, despite its nuclear weapons program and refusal to join the Nuclear Non-Proliferation Treaty (NPT). The United States is looking for a new strategic ally. And the chosen path to their respective destinations runs directly through a core nuclear non-proliferation principle—namely that civilian nuclear co-operation is to be confined to states that adhere to full-scope safeguards administered by the International Atomic Energy Agency (IAEA).

It is this fundamental rule that has guided, at least until now, the regulatory efforts of the 45 states of the NSG, including Canada, to prevent the spread of nuclear material and technology beyond legitimate civilian users.

In 1995, it became a global norm when the 189 States in the NPT adopted and expanded the same principle in a decision that said "acceptance of the Agency's full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons" is "a necessary precondition" for civilian nuclear co-operation.

But on Aug. 21, the NSG will consider a U.S. proposal to exempt India from that rule. President George Bush has even portrayed the exemption as a means of "bringing India into the international non-proliferation mainstream."

While others wonder how exempting India from a central non-proliferation principle will bring it into the non-proliferation mainstream, the pressure on them, including Canada, to go along with this selective fiddling with non-proliferation standards will not be easily resisted.

To be sure, India promises to place more of its civilian facilities under IAEA safeguards, but only some, and those of India's own choosing. India also promises to continue its moratorium on nuclear testing, but while still claiming what it calls its sovereign right to test. Neither the bilateral agreement between the U.S. and India nor the proposed NSG action calls for the exemption to be terminated if India conducts another test. Indeed, the exemption as proposed would permit India to stockpile nuclear fuel explicitly to make it immune to any future nuclear sanctions that could and should follow an Indian test.

And perhaps most notably, the proposal is to permit civilian nuclear co-operation with India without any demand that it end its production of fissile material for weapons purposes. The NSG exemption would actually facilitate the accelerated production of bomb ingredients and thereby open the door to violations of Article I of the NPT, which requires that states not in any way "assist, encourage or induce any non-nuclear-weapon state to manufacture or otherwise acquire nuclear weapons."

If Canada, for example, were to take advantage of the exemption and start selling uranium to India for its civilian programs, it would, contrary to Article I, be assisting India in the manufacture of nuclear weapons inasmuch as more of India's domestic uranium would then become available to its military program, and thus for accelerated warhead production.

India's growing arsenal would obviously not go unnoticed in Pakistan or China, risking a new south and north Asian nuclear arms race. And if foundational rules can be set aside in the interests of building new strategic alliances, it will not take China long to think about strengthening its strategic alliance with Pakistan, indeed the two have already been speculating on that very thing.

Exempting India from the basic full-scope safeguards rule would clearly serve particular interests, but the non-proliferation regime is not among them.

Even so, opponents of the exemption and proponents of disarmament face an uncomfortable reality—the status quo with regard to India, Israel, and Pakistan, the three states with nuclear weapons that are outside the NPT, is also weakening the non-proliferation regime. The prohibition on civilian nuclear co-operation has not prevented India (or Israel or Pakistan) from steadily building nuclear weapons. Simply continuing current policy is not going to induce any of them to give up their now significant arsenals.

So that raises the legitimate question of a compromise. Could the exemption for India be sufficiently conditioned—that is, linked to concrete non-proliferation commitments—to actually produce a non-proliferation benefit?

The question has certainly been explored, and the disarmament community generally points to at least three such conditions. If India is to be exempted from the full-scope safeguards rule while retaining its existing nuclear arsenal, it should at least be required to: a) commit to an end to testing and to seal that commitment with the signing and ratification of the Comprehensive Test Ban Treaty (CTBT); b) commit to a verifiable moratorium on producing fissile materials for weapons purposes, pending the negotiation and entry into force of a fissile materials treaty; and c) declare that it fully accepts the disarmament obligations of Article VI of the NPT and the related decisions of NPT Review Conferences.

In the short run, the domestic politics of India would lead it to reject such a compromise, but the offer of an exemption to the full-scope safeguards rule with these conditions attached would confirm key disarmament objectives and preserve the principle that the trade in civilian nuclear materials and technology can never be allowed to even indirectly aid a weapons program. That would be a non-proliferation payoff for Canada and other traditional disarmament champions to pursue at the NSG.

It would also show India a genuine path toward the non-proliferation mainstream and the common global effort toward the increasingly respectable goal of a world without nuclear weapons.

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