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Conditioning Nuclear Co-operation with India

by Ernie Regehr

Last fall, the Nuclear Suppliers Group, with Canada's support, opened the door to civilian nuclear trade with India after a 35-year ban, and there was little doubt that Canadian industry would soon try to join the global rush to go through it.

India has already signed new nuclear co-operation agreements with the U.S., France, and Russia, with Kazakhstan soon to follow. So when Canada's nuclear technology leader, AECL Ltd., visits India, as it did recently, to explore the opportunities, when Saskatchewan's uranium producing Cameco Corp eyes this major new market, or when a senior Foreign Affairs official says Canada's "top priority is to finalize nuclear and business agreements with India," they are in broad company.

India needs uranium. Its nuclear power plants currently run at only 40 to 60 per cent capacity because of a shortage of uranium, and that shortage is due to both the ban and to India's ongoing diversion of portions of its modest domestically-sourced uranium to bomb-making. Indeed, access to foreign uranium for its current and future civilian power plants will free up more of its domestic uranium for its weapons program.

While the NSG's formal lifting of the ban came without conditions, at least four specific informal constraints on nuclear trade with India emerged from the NSG's decision-making process, constraints that should become formal conditions.

The first is the very basic expectation that India will not test another nuclear device and that if it does, all co-operation will cease.

In a political pledge linked to the NSG action, India said it remained committed to "a voluntary, unilateral moratorium on nuclear testing," but it refused all efforts to make a permanent end to testing part of the deal. And given India's clear commitment to continued nuclear warhead production, internal Indian demands for more testing could at some point become irresistible. U.S. legislation requires any American nuclear co-operation to be halted in the event of another Indian test. Other suppliers were also adamant on the point, and Canada should certainly write into any nuclear co-operation agreement that a test would end it.

Indeed, we should go further and join other states in mounting renewed pressure on India to sign the Comprehensive Test Ban Treaty—it is India's refusal to do so that is one of the central obstacles to the treaty's entry into force, a treaty that is repeatedly declared by the international community as one of the most urgently required measures to prevent further vertical and horizontal nuclear proliferation.

Secondly, suppliers are rightly wary of supplying India with uranium at levels that would permit stockpiling. If India is

able to build up a large reserve of imported fuel for its civilian reactors it would in effect build up immunity to any sanctions that would almost certainly follow another weapons test. With a large stockpile of fuel at hand, India could be emboldened to ignore the wrath of the international community and conduct further tests in support of its still growing weapons arsenal.

A third caution raised by suppliers is that nuclear co-operation not include the supply of nuclear reprocessing or uranium enrichment technology—technologies that can be used to produce fuel for civilian reactors and nuclear weapons alike. U.S. domestic law prohibits the export of enrichment and reprocessing equipment and technology to any state outside the NPT and the nuclear suppliers group is considering making a similar restriction part of its own supplier guidelines—a condition that Canada supports.

Finally, it must be remembered that the new willingness to engage in civilian nuclear co-operation with India was ostensibly designed to win non-proliferation gains. India was to be brought into the non-proliferation club. As it turned out, India managed to avoid any new and binding commitments, but it did make a number of important and welcome political commitments.

Besides agreeing to continue its testing moratorium and to separating civilian and military nuclear facilities and programs, placing the former under International Atomic Energy Agency safeguards, India promised, among other things, to adopt the IAEA's Additional Protocol, allowing more intrusive inspections of civilian nuclear facilities, to support negotiations toward a Fissile Material Cut Off Treaty, and to support the goal of eliminating nuclear weapons and the negotiation of a convention toward that end. These are political commitments, and while India rejected all efforts to make the NSG waiver conditional on any of them, paragraph 3 of the NSG decision nevertheless insists that it is "based on" these and other commitments.

The question now is: What will Canada and the international community do to monitor the extent to which India actually makes good on its solemn promises? It is now the responsibility of the Nuclear Suppliers Group and any states entering into new civilian nuclear co-operation arrangements with India to ensure—logically through an annual review—that India acts on those commitments in support of global nonproliferation efforts.

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