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Nuclear Fallout ~ Implications of the World's Nuclear Deal with India

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Executive Summary

On September 6, the Nuclear Suppliers Group (NSG) agreed to exempt India from its rules barring nuclear dealings with countries, like India, that lack comprehensive international safeguards on their nuclear facilities. The NSG, a non-treaty body operating by consensus to insure that global trade in nuclear materials does not lead to nuclear weapons proliferation, is in essence the world's nuclear gatekeeper. Exempting India clears the penultimate obstacle to the implementation of the civilian nuclear cooperation agreement initiated by India and the US in July 2005, reversing India's decades-long isolation from the world's civilian nuclear trade regime. Letting India back in from the cold will reshape the global non-proliferation regime fundamentally, though the deepest impacts are years away, and calls into question whether the most powerful NSG member states are still willing to place collective non-proliferation objectives above short-term political advantage or commercial gain.

Canada, an NSG member, has emerged as a full supporter of opening the nuclear door to India. This represents a dramatic shift from Canada's long-standing objections to India's nuclear weapons development. Indeed, Canada's own sour experience as an early provider to India of nuclear technology intended solely for peaceful purposes helped make global nuclear non-proliferation and disarmament a pillar of Canadian international policy. Given these stakes, debate in Canada over the implications of reopening nuclear trade with India – for either the global non-proliferation regime or Canadian policy – has been surprisingly muted. But this interruption of Canada's decades-long active advocacy of global nuclear disarmament will not go unnoticed globally. The time for debate over the India nuclear deal is past; but the time for a broader and more public examination of the priority of nuclear disarmament in Canada's global policy objectives is now.



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Implications of Nuclear Cooperation with India

At the outset of the nuclear age, India was an outspoken supporter of nuclear disarmament efforts. But India also avidly pursued nuclear technology development and condemned as discriminatory the provisions of the Nuclear Non-Proliferation Treaty (NPT), negotiated in the 1960s, that allowed the five states that had already tested nuclear explosives to retain nuclear armaments (contingent on their pledge to pursue complete disarmament in the NPT's Article VI). After punctuating its refusal to join the NPT as a non-nuclear state with its own "peaceful nuclear explosion" in 1974, India was subsequently quarantined by the global nuclear trade regime. Canada had supplied the nuclear reactors India used to obtain the fissile material for its test, leaving many Canadians feeling personally betrayed. India's refusal to sign the 1996 Comprehensive Nuclear Test Ban Treaty (CTBT), underscored by its nuclear tests in 1998 (which provoked United Nations Security Council condemnation of India), deepened both the global and Canadian rifts.

But times have been changing. India today is an economic dynamo and thriving democracy with an increasingly important role in its region and the world. It has also garnered justifiable credit for unilaterally controlling the spread of its own nuclear technologies and adopting a defensively-oriented posture for its nuclear weapons capabilities. Proponents of the US-India deal have contended India is therefore a "responsible" nuclear steward as well as a rising "great power," and deserves to be treated accordingly. Supporters have also argued that the consequences for the non-proliferation regime will be minimal or even salutary; in this view, initiatives like the US-India nuclear deal represent necessary correctives to the NPT's inflexible multilateralism.

The growing tension between India's nuclear isolation and evolving circumstances was broken by the Bush Administration's path-breaking initiative to re-establish nuclear cooperation with India despite its nuclear-armed status. The bilateral US-India

agreement in July 2005 laid out the terms: India would separate its purely civilian facilities and negotiate a novel agreement with the International Atomic Energy Agency (IAEA) to place them under IAEA safeguards, while its nuclear weapons-supporting facilities would remain outside such oversight. Other states would then be allowed to engage the sequestered civilian segment of India's nuclear complex.

Non-proliferation advocates have opposed this deal from its first announcement, contending that India's nuclear activities cannot be fully separated: access to global uranium reserves for its civilian plants will allow it to utilize its limited domestic uranium supplies to expand its nuclear weapons arsenal more than it otherwise could have. India has declared that it seeks only a "minimum credible deterrent" but has not specified what nuclear armament levels that entails. Pakistan responding in kind to an increasing Indian nuclear capability would fuel regional arms race dynamics. Hence, non-proliferation supporters charge that by refusing to join the CTBT and continuing fissile material production, India is demonstrating even less commitment to nuclear stability and arms control than the NPT's five acknowledged nuclear states (the "P5"). In this view, re-opening nuclear engagement with India on such terms de facto legitimizes its nuclear-armed status, betraying the many countries that enjoy nuclear trade only as non-nuclear NPT parties and encouraging some countries, such as Iran, to view nuclear weapons acquisition as both a legitimate power resource and effective status indicator in global relations.

Such objections gained little traction in the policy-making process. In March 2006, the US Congress began considering legislation authorizing the president to negotiate a formal agreement with the Indian government to re-open US nuclear trade. With the Bush Administration and India advocates generating bipartisan support, most non-proliferation-oriented amendments

were defeated. The final measure approved in December – commonly known as the Hyde Act – contained only minimal non-proliferation provisions, principally a stipulation that the deal would be terminated if India conducted any further nuclear tests (reinforced by an amendment proposed by Senator Barack Obama aimed at preventing India from stockpiling nuclear fuel to hedge against interrupted global supplies).

The deal's meaningful opposition came instead from critics within India more concerned about protecting the independence of its nuclear programs and the sovereignty of its nuclear weapons posture. With the Hyde Act in place, US and Indian negotiators began crafting the "123 Agreement" (named after the section of the US Atomic Energy Act it would supersede), which would provide the basis for necessary IAEA and NSG actions, after which Congress would finalize the requisite changes in US law. But negotiations over the 123 Agreement slowed as the Indian government resisted all non-proliferation-oriented provisions. The agreement finally achieved in August 2007 acceded to key Indian demands, including conspicuously less



▲ The 123 Agreement between the US and India attempts to separate India's civilian and military nuclear activities. But critics argue that access to global uranium reserves for its civilian plants will allow India to utilize its limited domestic uranium supplies to expand its nuclear weapons arsenal.

concrete language on the consequences of future Indian nuclear testing – and Indian government officials subsequently took the position that the 123 Agreement “overrides” the Hyde Act's provisions. Ironically, non-proliferation advocates who once decried the Hyde Act as overly permissive became staunch defenders of its minimal stipulations.

In India, though, many critics opposed any deal, and India's communist party, an essential partner in the government, blocked final approval. The deal appeared dead. But in July 2008 Prime Minister Manmohan Singh (through machinations overshadowed by charges of questionable vote-buying arrangements) forged support for the deal by a party outside government, allowing him to win a parliamentary non-confidence vote and pass the deal on to the IAEA. A swiftly concluded safeguards agreement was approved by the IAEA Board of Governors (with overt Canadian support) on August 1, bringing the deal to the NSG's doorstep.

NSG approval was not pre-ordained. A core group of smaller NSG member states was unwilling to provide India with an unqualified exemption, holding out in particular for India to make a legally binding commitment to cease nuclear testing (such as signing the CTBT) and to unilaterally end fissile material production (as a prelude to a treaty-based cutoff), as other P5 states have done. At its first meeting on the matter in late August, some 20 countries (not including Canada) submitted over 50 amendments to the US draft proposal, necessitating postponement to a second meeting. Many of these countries greeted subsequently proposed US revisions as superficial. Revelations that the Bush Administration had privately assured Congress months earlier that the US would immediately terminate nuclear trade if India conducted a nuclear test contradicted publicly expressed understandings of the deal by Indian officials and highlighted the weaker standard the US was pushing at the NSG.

On the eve of the second meeting an editorial in China's Peoples Daily calling the nuclear deal a "blow to the international non-proliferation regime" hinted that deal opponents might gain a strong NSG ally. Chinese reservation was unsurprising: in the context of its 1998 tests, some Indian officials (most notoriously Defence Minister George Fernandes) identified China as the real target of India's nuclear weapons deterrent; more recently, many advocates of the nuclear deal have celebrated how a strengthened US-India relationship would "balance" China (India's adamant non-alignment notwithstanding). But China's foreign ministry quickly disavowed the editorial's sharper critiques, signaling Beijing would not block NSG consensus. In the end, no NSG countries wanted to earn the ire of both the United States and India simultaneously. The final NSG text merely "take(s) note" that India "voluntarily" will continue its "unilateral moratorium" on nuclear testing and its "readiness" to join efforts to create a multilateral treaty-based end to fissile material production. Last-minute negotiations also produced ambiguous text on some key future expectations by India and the international community, inciting numerous states to issue national statements of their own understandings of the exemption's terms and all but ensuring future disputes over interpretation.

Final US Congressional approval is still pending – but that is less relevant than widely realized. India's long delay in approving the deal may prevent the US Congress from considering the question until after a new US president is inaugurated; whenever it comes up, there will be resistance to further relaxing terms of the Hyde Act. But US action is required only to allow US companies to begin nuclear trade with India. The NSG exemption allows other countries to enter into their own deals now. France and Russia, which many expected to be India's most important new nuclear technology suppliers anyway, are likely to seek to consummate deals quickly. India intends to wait for the Congressional sign-off before finalizing any contracts, but has little reason to do so if Congress delays acting. Ironically, US companies

could be left out of the new nuclear dealings that the US government instigated. More likely, however, is that a desire to avoid precisely that outcome will motivate many in Congress to approve equivalent terms before the US election – the Hyde Act's pressure on the IAEA and NSG has now been reversed.

The consequences for the nuclear non-proliferation regime of admitting India to the "club" of nuclear-armed states in this fashion will be debilitating over the long-term. Taken together, India's amorphous commitments on nuclear testing and fissile material production, and the NSG exemption's ambiguous language on nuclear fuel stockpiling and transfers of enrichment and reprocessing technologies, severely erode the credibility of the international norm that countries can partake in peaceful nuclear trade and technology only if they abide by global non-proliferation and disarmament standards. The nuclear deal undermines the reputations of the IAEA and NSG as repositories of those standards, and calls into question whether the most powerful NSG member states are still willing to place collective non-proliferation objectives above particular short-term political advantage or commercial gain.

To be clear, the tragedy of the India nuclear deal is not that it exists. Changing circumstances were demanding some sort of nuclear reconciliation with India, and a genuine opportunity for fashioning new arrangements that would promote rather than degrade global non-proliferation and disarmament efforts was at hand. India has been a member in good standing of the IAEA since before the NPT was initiated; an "agree to disagree" accommodation of India within the broader fabric of the non-proliferation regime, despite its status as a nuclear-armed state outside the NPT, was possible. The NPT itself, after all, is merely a means to the greater end of eliminating the threat nuclear weapons pose to all states – to the world as a whole. A fulsome Indian dedication to that fundamental norm, evoked by strong commitments

Nuclear policy at the centre of relations

Canada and India enjoyed good relations during the Nehru period (1947-1964) in the years after India's independence -- although perhaps not as close as Ottawa imagined. India's defeat in the Sino-Indian war of 1962 fueled an urgency in Delhi for security and deterrence from Pakistani and Chinese attack that broke with Nehruian foreign policy. Canada was a major aid donor to India through the Colombo Plan up to this time, and provided Delhi with the nuclear reactor that was the source of materials India used to conduct its first nuclear explosion, the so-called the Smiling Buddha nuclear test in 1974. Canada-India relations instantly deteriorated, with Canada emphasizing the importance of multilateral approaches to non-proliferation while India remained staunchly opposed to the inflexible Non-Proliferation Treaty which restricts nuclear weapons to the original five nuclear weapon states. Some have even suggested that Canada's experience with India was the catalyst for its subsequent strong on non-proliferation in a multilateral environment.

To Canada, India's Smiling Buddha test was a betrayal of trust. However, Ottawa and Delhi were still able to cooperate in multilateral forums throughout the remainder of the Cold War. They were able to negotiate an extradition treaty during the often violent struggle by Punjabis for an independent homeland, Khalistan -- a movement that was heavily financed by émigrés in Canada -- and they cooperated to end South African Apartheid. India's liberalization agenda in 1991 helped fuel renewed optimism for increased cooperation. The Team Canada visit to India in 1996 prioritized Canadian investment in India. However, India's Pokhran nuclear test in 1998 brought another sharp deterioration in relations, with a freeze on official visits for several years.

Ministerial/bureaucratic meetings have been held between India and Canada in the new millennium and the US lead on accepting India as a nuclear state has seen Canada ease its hard-line position on non-proliferation, removing the long-standing irritant in bilateral relations.

to specific measures curtailing further expansion of its existing nuclear arsenal, would have signaled to the world that a "responsible" nuclear power is one that values the security concerns of its neighbors as well as itself and seeks sincerely and actively to advance the global disarmament objective. That would have been worth the acknowledgement of India's de facto nuclear-armed status.

Rather, the tragedy of the deal is in its particular terms. The numerous specific technical complaints of non-proliferation advocates taken together reveal how the deal undermines that core disarmament objective by advancing a different norm: that some states may more legitimately than others rely on nuclear threats for national security purposes, so long as they abide by the nuclear club's rules and take measures to keep the membership exclusive. Such is this deal's implicit measure of

"responsibility." This alternative norm, justifying simultaneously the indefinite retention of nuclear arms by the existing oligopoly and strenuous efforts to prevent further proliferation, has undergirded the Bush Administration's nuclear weapons policies since its promulgation of the 2002 US Nuclear Posture Review. Bush Administration policy-makers have assiduously insisted that US nuclear weapons policies are "irrelevant" to the non-proliferation obligations of countries like Iran and North Korea -- "responsible" states are measured by a different standard. Further establishing this standard has been exactly the point for some architects on both sides of the US-India nuclear deal. Hence, many of the Bush Administration's "concessions" to India on disarmament-promoting measures were not concessions at all, but rather provision to India of terms it would have apply to the United States as well.

Of course, the assertion that the cabal of current nuclear-armed states might legitimately retain their capabilities indefinitely contradicts the disarmament imperative codified in the NPT's Article VI, which constitutes the normative premise by which non-nuclear NPT states have forsaken these capabilities. The dissolution of that normative foundation will corrode global non-proliferation efforts. Certainly, specific states of concern, like North Korea, Iran, Pakistan or Syria, have specific motivations, usually regional or domestic, for their nuclear weapons ambitions. The nuclear deal with India is not going to directly "cause" other states to rush out to the nuclear Wal-Mart. But eviscerating the long-term disarmament norm is a permissive cause of nuclear proliferation in two senses. First, it reinforces the perceived strategic and symbolic value of a nuclear capability, making it easier for nuclear arms advocates to gain both elite and public support for their ambitions. President Ahmadinejad's complaints that the disparate treatment of India and Iran is hypocritical have no currency in the West, but resonate for his domestic audience. Second, abandoning the disarmament objective breaks faith with the vast majority of the world's countries which, though they will never pursue nuclear weapons of their own, rely upon the global non-proliferation regime as the bulwark against the threat that nuclear weapons pose to the world as a whole. Tangible specific efforts to head off proliferation dangers – such as impeding Iran's acquisition of uranium enrichment technologies – cannot succeed if the nuclear-armed states have alienated the rest of the world from the very regime that validates such objectives.

India is certainly a growing economic and political power in the world, and a vibrant democracy sharing many values with its Western counterparts. Nurturing and deepening relationships with India is right and necessary. But acknowledging India's status as a nuclear-armed state has never been an intrinsic prerequisite to acknowledging its emerging "great power" status. The centrality of the former

to the latter stems more from the weight India's nuclear program has come to bear domestically as a symbolic indicator of national status and prestige. The character of the domestic debate in India over the past two years has made it quite evident that the quest for acknowledgement of that self-conception is shared across India's political spectrum. This quest, rather than practical economic or political necessity, has made the nuclear issue so central to all other dealings with India. Hence, the nuclear deal need not have been a prerequisite to acknowledge India's rising global role, as "power transition" analysts suggest. The nuclear deal ratifies not that status itself, but rather India's own assignment of its nuclear capabilities as the key indicator of that status – and in so doing, reinforces perceptions of



▲ The safety of India's civilian nuclear power plants is not the issue raised by the NSG agreement -- rather it is allowing India access to nuclear supplies and technology without gaining its acceptance of nuclear proliferation safeguards.

nuclear weapons possession as a measure of stature and power precisely among those whose nuclear ambitions most need to be discouraged.

Canada, by most accounts, actively supported both the IAEA and NSG actions. Whether this support represents a considered embrace of the wider political and normative implications of the deal is unclear. Certainly, there has been an element of political necessity in this posture. Canada has significant interests in obtaining better political and commercial ties to India – interests that their domestic constituencies have not been shy to point out. There is an ancillary hope that Canada's nuclear industries may benefit from new commercial opportunities in India, but that is far from assured – other countries are better positioned. The enormous importance the Bush Administration came to place on realizing the nuclear deal undercut the viability of Canada taking a stand in opposition, even if it had wanted to. So it is unsurprising that the Harper government, given its minority status and the possibility of an election at any time, made no effort to advertise its support for the deal or solicit a public debate. Instead, with the NSG deed done and the election now on, attentive Canadian constituencies that have long supported the deal laud the government, with no signs that the implications for Canada's disarmament policies will emerge as a partisan issue.

But if Canada's support for unqualified reopening of nuclear cooperation with India is flying under the domestic electoral radar, it will not go unnoticed

globally. Canada's decades-long active advocacy of global nuclear disarmament has been interrupted. Whether this interruption marks an aberration or a new direction remains to be seen – and will depend upon whether this government's decisions trigger a broader and more prominent debate over the priority of nuclear disarmament among Canada's future global policy objectives.

Certainly, improving Canada's long-cool relations with India is as worthy a goal now as it was in the 1950s, the first time Canada embraced nuclear cooperation with India as a means to facilitate broader ties. And it is time to get past the lingering emotive repercussions of the collapse of that initiative – national policy requires sober assessment of today's and tomorrow's interests and values. But note the painful irony: Canada's first attempt at nuclear cooperation with India ended up not only facilitating India's nuclear weapons program but also poisoning India-Canada relations instead of building them. Consonance of values does not necessarily mean convergence of national policies. More attention to proliferation risks of nuclear cooperation then might have been more productive to the relationship in the long-run. The same holds now: a more disarmament-promoting arrangement with India might have proven a more stable foundation on which to build India's future global prominence. Thus, the choice has never really been a simplistic "India versus non-proliferation." Sometimes, preserving principles is also the wiser course to enduring amity.

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