

Testimony of Gary Milhollin

Director, Wisconsin Project on Nuclear Arms Control
and
Professor Emeritus, University of Wisconsin Law School

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Mr. Chairman, and Members of the Committee, I would like to thank you for inviting me to testify today on the administration's plan for nuclear cooperation with India, and particularly on the plan's strategic impact.

The Committee is right to emphasize the strategic nature of the plan. The legislation to implement it goes to the heart of our national security. The bill now before Congress would change our export control laws – laws that have been in effect for almost thirty years, and that were adopted in response to India's nuclear test in 1974. It is worth remembering that India achieved that test by diverting plutonium made with a peaceful U.S. nuclear export, which is why India had to call the test a "peaceful nuclear explosion."

The broad question before us is this: Why, after 9/11, when we should be doing all we can to fight terrorism, and when we talk almost every day about states or terrorists getting their hands on an atomic bomb, should we weaken the controls on the export of nuclear material? Is this the right time to do that? And if we do it, will it make us safer?

These are the questions that Congress should ask. So far, the debate has emphasized diplomacy and trade. The most important questions, however, are strategic. The answers, I'm afraid, are that the legislation will not make us safer. Instead, it will put us more at risk.

Why? Because it is impossible to weaken export controls for India without weakening them for everyone else. The "everyone else" includes Iran, Pakistan, and even terrorist groups – working through a national government or not – who might want to buy the means to make mass destruction weapons. And if we do weaken export controls for everyone, which is bound to happen if we weaken them for India, we may hasten the day when a nuclear explosion destroys an American city.

The great flaw in the administration's proposal is that it considers India an isolated case. This is simply impossible. To do so contradicts the fundamental principle upon which export controls are based. The controls today are administered through international regimes. The regimes include the Nuclear Suppliers Group and the Missile Technology Control Regime. The first tries to stop the spread of nuclear arms, the second the missiles to deliver them.

A cardinal principle of both regimes is that they are "country neutral." That is, they do not make exceptions for specific countries. The MTCR uses objective criteria to target "projects of concern" for missile proliferation. The NSG requires all non-nuclear weapon states that import items designed or prepared for nuclear use to accept comprehensive inspections. Under such inspections, all critical nuclear material must be accounted for, regardless of the country. In this way, the regimes have avoided making politically motivated decisions.

There is good reason for this practice. If the United States decides to drop controls to help one of its friends – in this case India – other supplier countries will do the same for their friends. China will drop controls on its friend Pakistan, and Russia will drop controls on its friend Iran. There will be no way to convince either China or Russia not to do that. They will say that what is good for your friend is good for mine. If you want to develop your market in India, I want just as much to develop my market in Pakistan or Iran. No country will give up a market unless other countries do the same. That is the way international regimes work.

The regimes also rely on coordination, and on consensus. The United States acted unilaterally when it made its deal with India. There was no reported notification or coordination with the NSG or MTCR before the deal was concluded. By violating the consensus norm of these regimes, the United States has invited other members to act the same way. If they do, they may make unilateral deals with Iran or Pakistan without informing the United States. This risk has been created by our own action, and certainly does not make us safer.

The regimes also require enforcement. The member countries are required to investigate and shut down unauthorized exports by their own companies. Since the attacks on 9/11, we have been asking the other countries to do more of this. But can we really ask them to crack down on companies that are exporting the same kind of goods to Pakistan or Iran that we are exporting to India? The same kind of technology will be going to the same kind of projects. What sense will there be in trying to interdict the one and not the other? Even if we can convince the other supplier countries to give lip service to an exception for India, it is unrealistic to expect them to follow through with enforcement against their own companies.

Once we start tinkering with the regimes, they could unravel quickly. As one expert in the Pentagon told me, they are like a spring-loaded box. If you raise the lid, you may never get it closed again. What he meant was that the United States has always set the standard for export controls, and other countries have often taken a long time to follow the U.S. lead in strengthening them. But if the United States decides to loosen controls, it will take only an instant for other countries to follow. The lid will fly off, and we may never be able to get it back on.

I would also like to add a personal note to this point. I have just returned from trips to Jordan and the United Arab Emirates, where I helped provide training and information to assist these countries in improving their export controls. I hope to go to Turkey next. These are all Muslim countries in which the U.S. government is trying to improve export control performance. The export control officials in these countries are now the front-line troops in the fight against terrorism. They must do their jobs well in order to keep terrorists from getting their hands on dangerous technology.

In Jordan, one of the first questions I was asked was: “What about India? Why has the United States decided to export to India?” There is no way I, or any other American, can answer that question in a credible way in a Muslim country. India, Pakistan and Iran all decided to

develop nuclear weapons under the guise of peaceful nuclear cooperation. From this standpoint, they are indistinguishable. Why punish Pakistan and Iran but not India? They are all guilty. There is no persuasive reason for treating them differently. India is no different today than it was in 1998, when it tested a nuclear weapon. So, the second question, hiding behind the first, is “what is the ground for the discrimination?” None of us wants to think of the word religion, but it is a word that is in the mind of Muslim countries. If the United States is only against proliferation by countries it does not like, which now appears to be the case after the deal with India, why does it like some countries but not others?

Congress should look deeply into these questions before approving the legislation. So far, it does not appear that anyone has done so, including the administration. The administration’s plan was arrived at hastily, with no consultation with other regime members, and virtually none with Congress. If the press is to be believed, there was even little consultation with arms control experts within the administration itself. The proponents of the deal have presented it as if it were simply a matter of trade and diplomacy. Congress should insist upon a full review of the strategic impact.

If one looks at the strategic side, it is hard to see why we should be helping India. Only three countries have refused to sign the Nuclear Nonproliferation Treaty: India, Israel and Pakistan. Of the three, India is the least important strategically.

Under any calculation of America’s strategic relations, Pakistan ranks higher than India. Pakistan is essential to our ongoing military and political efforts in Afghanistan. Pakistan is also essential to our campaign against Al Qaeda. Without the aid of General Musharraf, we would have a much harder time accomplishing our goals in either of these endeavors. Pakistan is also a leading power in the Muslim world, a world with which the United States needs better relations. Yet, our deal with India is a blow to General Musharraf’s prestige at best, and at worst a public humiliation. We should not give General Musharraf more trouble than he already has.

Israel, of course, has always been a close U.S. ally, and will continue to be. Israel would like to have U.S. nuclear cooperation. In addition, Israel is located in a part of the world that is of the highest importance to U.S. foreign policy interests.

In any competition for strategic favor from the United States, India finishes a distant third.

Is India nevertheless important because it will become a counterweight to China? Proponents of the deal so argue. But the notion that India might assist the United States diplomatically or militarily in some future conflict is pure speculation. India’s long history as the leader of the “non-aligned” movement points in the opposite direction. India will follow its own interests as it always has. An example is India’s decision to train Iranian sailors and import Iranian gas. In addition, India shares a border with China, is keen to have good relations with China, and does have good relations with China. It will not sour such relations simply from a vague desire to please the United States.

This India-as-counterweight-to-China theory reminds one of the argument made by the first Bush administration in the 1980's, when it contended that the United States should export sensitive dual-use equipment to Saddam Hussein in order to build up Iraq as a counterweight to Iran. U.S. pilots were later killed in Iraq trying to bomb things that U.S. companies had provided. History shows that such predictions can be dangerous.

Then why choose India for preferential treatment? If it is not because of our need to fight terrorism, and not because of our desire to reward a faithful ally, what is it? There seems to be only one answer: India is the biggest market. Secretary of State Rice readily admits the commercial interest. On April 5 she testified to this Committee that the agreement with India was “crafted with the private sector firmly in mind.” She cited a 13 billion dollar deal by Boeing; she cited the hope of reactor sales by our nuclear industry; she cited the opportunity for “U.S. companies to enter the lucrative and growing Indian market.”

She might also have mentioned India's defense market. That market seems to be the one that is really motivating the deal. India is shopping for billions of dollars worth of military aircraft, and the administration is hoping it will buy both the F-16 and the F-18. According to the American press, officials in the defense industry and the Pentagon are saying that the main effect of the nuclear deal will be to remove India from the ranks of violators of international norms. And once this change in India's status occurs, there will be no impediment to arms exports. The Russian press is even more explicit. It complains that in addition to “recognition of India's nuclear status by the United States,” the nuclear deal “opened the door to the Indian market for American arms merchants,” with the result that Russia may be squeezed out.

Boiled down to the essentials, the message is clear: Export controls are less important to the United States than money. They are a messy hindrance, ready to be swept aside for trade. But, a decision to put money above export controls is precisely what we don't want China and Russia to do when they sell to Iran. We don't want China and Russia to tell us that money in their pockets is more important than stopping Iran's march toward the bomb. But China and Russia are now hearing the new commercial message coming from America, and they are not stupid. If they see that we are willing to put money above security, and willing to take the risk that dangerous exports won't come back to bite us, they will do the same. Everyone's security will diminish as a result.

Thus, this legislation has clear costs to our security. Are these outweighed by the benefits? What are the benefits?

The principal benefit cited by the administration is that India will place 14 of its 22 power reactors under inspection. But, as others have pointed out, this leaves a great number of reactors off-limits. In fact, the reactors that are off-limits will be sufficient to produce enough plutonium for dozens of nuclear weapons per year. This is more than India will ever need. India is not restricting its nuclear weapon production in any way. Therefore, there is no “non-proliferation benefit” from such a step.

In effect, India's offer is like that of a counterfeiter with a 22 room house, who offers to let the police look into 14 rooms as long as they stay out of all the others. Why would any policeman in his right mind accept such an offer, or want to inspect one of the 14 rooms? It would be the only place where he was sure not to find anything. It would waste his time, just as it will waste the time of international inspectors to look at India's 14 declared reactors. Everyone knows that it will be the eight undeclared ones that make the bombs. India, in fact, appears to have calculated the number of reactors to put off-limits according to how much plutonium they will make. India has assured itself that the resulting amount of plutonium will be enough to allow it to continue making bombs at an unfettered pace.

This point about wasting inspection time may seem minor, but it isn't. The International Atomic Energy Agency has a limited number of inspectors. They are already having trouble meeting their responsibilities. To send them to India on a fool's errand will mean that they won't be going to places like Iran, where something may really be amiss. Unless the Agency's budget is increased to meet the new burden in India, the inspection of India's declared reactors will produce a net loss for the world's non-proliferation effort.

The other major benefit that the administration cites is that India may buy American reactors. Such a possibility exists, but is remote. The precedent is our experience with China. Some members of the Committee may remember the intense debate in Congress over the U.S. nuclear cooperation agreement with China in the 1980's. At the time, our industry was citing the large number of reactors that China was planning to buy, and predicting that many of the orders would come to us. How many American reactors did China actually buy? The answer is: none. Exactly zero. The main effect of China's agreement with us was to increase the number of vendors who were in competition. The result was to drive the price down for the Chinese reactor buyers. That was good for China, but did nothing for us. The Chinese import orders went to France, Russia and Canada.

We are not likely to fare any better this time. New Delhi is already building a string of reactors on its own that are less expensive to put up than ours. And if India wants to import reactors, it can turn to the Russians, who will charge less money and attach fewer conditions, and who are already ahead of us in the Indian market. It can also turn to the French or even perhaps the Canadians. All of these countries will compete with us if we sell to India. The chance that we will defeat this competition is slim.

The administration also argues that India has a great need for nuclear power to meet its electricity demand. This too is far-fetched. India has been generating electricity with nuclear reactors for more than 40 years. Yet, reactors supply only about 2% to 3% of its electricity today. If reactors are so vital to India's energy needs, why hasn't India built more? The answer is that reactors have not turned out to be as safe, or as clean, or – most important – as economical as originally thought. Nuclear power has been virtually insignificant in India's energy mix in the past, and will be no more important in the future. It is worth noting that the United States hasn't ordered a new reactor for about thirty years. Why do we expect India to buy American reactors when even we aren't buying them?

I would also like to comment on the effect that the administration's new policy will have on missile proliferation. President Bush and Indian Prime Minister Manmohan Singh agreed to cooperate in "space exploration," including "satellite navigation and launch." This language is broad enough to allow missile-useable components and technology to be exported. The United States seem entirely ready to permit such sales. The U.S. Commerce Department recently dropped restraints on American exports of missile-related equipment to three subsidiaries of the Indian Space Research Organization, despite the fact that all three are active in Indian missile development. This appears to be only a first step in a general loosening of U.S. missile export controls for India.

It is difficult to predict where this will lead. One cannot help a country like India build better space launchers without helping it build better missiles. Our experience with China is again the precedent. In the 1990's China got crucial American help in rocket design, guidance, launch operation, and payload integration, all of which were directly useable in making intercontinental ballistic missiles. The help came from American companies that were supposed to be engaged only in a peaceful space effort.

India will be no different. India, in fact, is the first country to develop a long-range nuclear missile from a civilian space-launch program. India's Agni missile, tested in 1989, was built by using the design of the American "Scout" space rocket. India imported the blueprints from NASA under the cover of peaceful space cooperation.

India has every intention of building nuclear missiles that will reach the United States. For some years, India has been working to develop a nuclear submarine, which will be able to threaten every coastal city in the world with a nuclear payload. India has also been working on an intercontinental ballistic missile, known as the Surya, which will fly much farther than any target in China. Two questions come to mind. Why should India want to reach such targets? And does the United States really want to make it easier for India to succeed?

The final point I would like to make has to do with the power of Congress. That power will be greatly reduced if the administration's legislation passes.

The important question to ask about the power of Congress is this: Why is this bill necessary? What is wrong with present U.S. law?

Under the present Atomic Energy Act, the president could make an agreement tomorrow for nuclear cooperation with India. All the president has to do is submit to Congress what is known as an "exempt" agreement – that is, an agreement that does not satisfy the Act's present criteria for nuclear cooperation.

India does not satisfy the criteria because it has refused to put all of its nuclear material under international inspection and is, in fact, running a secret nuclear weapon program. That is why the president must "exempt" the agreement before submitting it to Congress. After such a

submission, Congress must adopt a joint resolution saying that it favors the agreement. If Congress disagrees, or does not act, the agreement does not go into effect.

The president must meet a high standard to justify the exemption. He must find that holding India to the present criteria “would be seriously prejudicial to the achievement of United States non-proliferation objectives” or that it would “otherwise jeopardize the common defense and security.” He must also persuade Congress that he is right, because Congress must take action for the agreement to operate.

Why hasn't the president taken this course of action? Apparently, because he cannot meet the standard. He cannot find that it “would be seriously prejudicial to the achievement of United States non-proliferation objectives” to make India meet the existing criteria. To the contrary, it would *advance* U.S. non-proliferation objectives if India met the criteria, because India would be giving up its bomb program and putting its fissile material under international inspection. That would be a clear gain for non-proliferation instead of a loss.

Because the administration cannot meet the present standard, the administration has asked Congress to lower it. India would only have to meet a list of weaker criteria that the administration is already confident India can comply with.

But the administration has not been content to stop there. It also wants to shift the burden of proof. Under the new legislation, the burden of proof would shift to Congress. Instead of having to convince Congress to act after submitting an “exempt” agreement, the agreement would take effect automatically after 90 days unless Congress voted affirmatively to block it. Any such vote could be vetoed, so Congress would have to muster a 2/3 majority in both houses in order to have its view prevail. That is in direct contradiction to present law, under which an exempted agreement would have to be affirmatively agreed to by a joint resolution.

Thus, the effect of the bill is twofold: it makes it easier for the president to exempt an agreement, and it makes it harder for Congress to prevent an exempted agreement from taking effect. If Congress wishes to preserve its existing power, it could require that an exempted agreement still be reviewed under the present process. The administration has not advanced any persuasive reason why the process of Congressional review should be changed.

Preserving the existing process would have several advantages. Congress would have more than 90 days to study the agreement; Congress would not have to muster a veto-proof majority to block the agreement, or attach conditions to it; and Congress would be able to see the actual agreement before taking a vote.

Under the new legislation, Congress is being asked to lower the standards for nuclear cooperation and to shift the burden of proof before any agreement with India has been reached. Congress is being asked to vote without knowing what kind of inspections India will eventually agree to, without knowing whether India will really improve its own export controls, and without knowing whether India's plan for separating its civilian from its military nuclear facilities is

“credible,” as the new criteria require. Congress would be buying a pig in a poke. It would be giving the administration carte blanche authority to make an agreement that, because of Congress’ reduced power of review, there would be little opportunity to change.