



Mayors for Peace

Secretariat

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MAYORS FOR PEACE STATEMENT ON THE N.S.G DECISION TO GRANT INDIA A WAIVER

On September 6th, 2008, a small, unrepresentative group of countries gave each other permission to violate the Nuclear Non-Proliferation Treaty. The 45-member Nuclear Suppliers Group not only ignored the unanimous decision of the 1995 NPT Extension Conference, they ignored the NPT itself. The NPT, which has always been considered the cornerstone of the nuclear-nonproliferation regime, receives but a single perfunctory mention in their decision. This puts them in league with India, which has a long-standing record of disdain for the NPT, and the United States which, under the current Bush Administration, has also shown disdain for the Treaty. We had pinned our hopes on at least one member of the NSG opposing the changes and standing up for the integrity of the NPT. That none had the wisdom or courage to do so makes this a very sad day, indeed, for the NPT.

This action was not only taken without the permission or authorization of the NPT States Parties as a whole, but also without even consulting them. Indeed, at the most recent meeting of the States Parties (2008 Prep Com) principled objections to a waiver were raised by states not members of the NSG. These objections were completely ignored.

The 1995 NPT decision to bar trade with non-nuclear-weapon states that do not accept full-scope safeguards was taken for the expressed purpose of tightening compliance with Article I of the NPT, which prohibits assisting "in any way" the acquisition of nuclear weapons by a non-nuclear-weapon states. While India is a nuclear-armed state, under the terms of the NPT it is by definition a non-nuclear-weapon state since it had not conducted a nuclear explosion prior to conclusion of NPT negotiations (the actual cut-off date is 1 January 1967). Full-scope safeguard are the only means of having assurance that supplies, equipment, and information regarding nuclear power generation and fuel enrichment and reprocessing is not contributing to the acquisition of nuclear weapons. The NSG not only waived the full-scope safeguards requirement, they granted the waiver before seeing the Additional Protocol which India is to negotiate with the IAEA. If that Protocol Agreement is similar to the one the nuclear-weapon states have with the IAEA it will be useless for providing assurance against diversion of sensitive supplies, equipment, or information. Only an Additional Protocol of the type designed for non-nuclear-weapon states gives such assurances.

In short, any NPT State Party that now engages in nuclear trade with India is acting in reckless disregard for its obligations under Article I of the Treaty. The fact that an unauthorized group of countries have collectively agreed to accept such behavior does not make it legal.

Let us be clear, the effect of the decision taken in Vienna, intended or otherwise, is to recognize India as a sixth nuclear-weapon state. The NSG states have no right whatsoever to impose such a radical change on the rest of the world. Their decision has no legal standing, and cannot unless and until the NPT States Parties as a whole agree to give it such standing. The Preparatory Committee for the 2010 NPT Review Conference should give priority consideration to this matter at its May 2009 meeting. Until the outcome of those consultations is known, all States must keep nuclear trade with India on hold.

This unauthorized decision only deepens the crisis in confidence surrounding the NPT. At the center of this vortex is the persistent avoidance by some of the nuclear-weapon states of their legal obligation to pursue negotiations in good faith on the elimination of their nuclear arsenals, or as the International Court of Justice put it: to conclude negotiations leading to nuclear disarmament in all its aspects. It was with this crisis in mind that the Cities of Hiroshima and Nagasaki, with the backing of Mayors for Peace, issued the Hiroshima-Nagasaki Protocol.

With the NSG decision of September 6th, the Protocol gains even greater relevance and we call on governments to begin consideration of it in the Preparatory Committee of the 2010 NPT Review Conference.