

A MEMORANDUM OF UNDERSTANDING FOR UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NON-PROLIFERATION ENHANCEMENT ACT CERTIFICATIONS

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MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

A MEMORANDUM OF JUSTIFICATION FOR CERTIFICATIONS PURSUANT TO SECTION 102(c) AND SECTION 204(a) OF THE UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NON-PROLIFERATION ENHANCEMENT ACT, PURSUANT TO PUB. L. 110-369, SEC. 102(c) AND 204(a)



NOVEMBER 19, 2008.—Message and accompanying papers referred to the Committee on Foreign Affairs and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 2008



THE WHITE HOUSE,  
*Washington, October 20, 2008.*

Hon. NANCY PELOSI,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: I am pleased to transmit to the Congress the certifications required under section 102(c) and section 204(a) of the "United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act," (Public Law 110-369), and a Memorandum of Justification regarding those certifications.

Sincerely,

GEORGE W. BUSH.



MEMORANDUM OF JUSTIFICATION FOR CERTIFICATIONS PURSUANT TO  
SECTION 102(c) AND SECTION 204(a) OF THE UNITED STATES-INDIA  
NUCLEAR COOPERATION APPROVAL AND NON-PROLIFERATION EN-  
HANCEMENT ACT

This memorandum provides the justification for the certifications required under Section 102(c) and 204(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act of October 8, 2008 (the "Act"), in order to bring the United States-India Agreement for Peaceful Nuclear Cooperation (the "Agreement") into force.

With respect to Section 102(c), the Agreement is fully consistent with U.S. obligations under the Treaty of the Nonproliferation of Nuclear Weapons (NPT), including our obligation under Article I "not in any way to assist, encourage, or otherwise induce" India to "manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices." Consistent with Article I, our bilateral agreement for peaceful nuclear cooperation with India is limited to activities involving safeguarded civil facilities in India. Nothing to be provided to India under the Agreement will be involved in any stage of the process of manufacturing nuclear weapons. The NPT does not treat peaceful nuclear cooperation under safeguards as assisting a non-nuclear-weapon state to manufacture nuclear weapons. Instead, it establishes a basis for NPT parties to engage in nuclear cooperation with safeguarded facilities in countries that are not parties to the NPT and do not have full-scope safeguards.

With respect to Section 204(a), it is long-standing U.S. policy to restrict transfers of technology related to uranium enrichment and reprocessing technology (ENR). In a 2004 speech to the National Defense University, President Bush expressed the United States Government's policy view that the Nuclear Suppliers Group (NSG) should not sell uranium enrichment or reprocessing equipment or technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants. Since that time, the United States has been pursuing, and the NSG members have been actively discussing, stricter controls over ENR transfers. We will continue our efforts to build on the progress toward consensus that has been developing on this issue.



[Presidential Determination No. 2009-6]

THE WHITE HOUSE,  
*Washington, October 20, 2008.*

Memorandum for the Secretary of State.

Subject: Certifications Pursuant to the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110-369).

Pursuant to section 102(c) and section 204(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, I hereby certify that:

1. Entry into force and implementation of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and

2. It is the policy of the United States to work with members of the Nuclear Suppliers Group, individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

You are authorized and directed to publish this determination in the *Federal Register*.

GEORGE W. BUSH.



THE WHITE HOUSE,  
*Washington, October 20, 2008.*

Hon. NANCY PELOSI,  
*Speaker of the House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: I am pleased to transmit to the Congress the certifications required under section 102(c) and section 204(a) of the "United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act," (Public Law 110-369), and a Memorandum of Justification regarding those certifications.

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