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

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
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 nu-
clear 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 as-
sisting a non-nuclear-weapon state to manufacture nuclear weap-
ons. Instead, it establishes a basis for NPT parties to engage in nu-
clear 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.
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.

Sincerely,

GEORGE W. BUSH.