

THE U.S.-INDIA GLOBAL PARTNERSHIP

HEARING BEFORE THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

SECOND SESSION

APRIL 5, 2006

Serial No. 109-179

Printed for the use of the Committee on International Relations



Available via the World Wide Web: http://www.house.gov/international_relations

U.S. GOVERNMENT PRINTING OFFICE

26-905PDF

WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THE U.S.-INDIA GLOBAL PARTNERSHIP

WEDNESDAY, APRIL 5, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to notice, at 1:32 p.m. in room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. Committee will come to order.

Madame Secretary, it is a pleasure to have you before us once again. Yours has become an increasingly familiar face, and it is most welcome. Your personal involvement regarding the United States-India global partnership testifies to the importance the Administration places on this initiative, a focus which is shared by all Members of this Committee.

Given the profound nature of this initiative and its potential consequences for good or ill, it is our intention to proceed carefully and thoroughly, but with all deliberate speed.

As part of that process, I would like to take this opportunity not to comment on the merits of the agreement itself, but instead lay out what I believe are some of the principal issues and points of contention on which Members of this Committee will need additional information in order to make an informed decision. I welcome my colleagues to add to this brief list.

In general, this new and multi-faceted initiative with India has been termed a global partnership, and has been widely hailed as a bold and encouraging development. I personally know of no one who is not in favor of improved relations and enhanced cooperation between the United States and India, which, to my mind and that of many others, is long overdue.

Such disagreement as exists on this subject centers primarily on its perceived importance in strategic terms, and on the depth and extent of the anticipated cooperation. Some see a nascent and far-reaching alliance between our two countries that will have a dramatic, perhaps even transforming, geostrategic impact. Others place this new relationship in a more modest context, viewing it as a useful endeavor, but far from heralding a fundamental change in the nature of our relationship, or in the balance of power in Asia.

The same general welcoming attitude extends to the several areas of specific cooperation outlined in the joint statement of July 18, embracing economic relations, promoting democracy, countering terrorism, combating AIDS, enhancing energy resources, and many other worthy endeavors.

There is some dissent regarding the wisdom of inviting India's participation in the international fusion research project and offering cooperation on space programs, as the first is seen as potentially aiding its weapons program, and the latter its missile program.

But these concerns are not central to consideration of the merits of the initiative as a whole. As all are aware, the principal area of contention by far concerns the proposal to open up civil nuclear trade. Specifically, its possible detrimental impact on U.S. and global non-proliferation policy. This subject is of particular interest to this Committee because it has jurisdiction over the legislation that will be required to allow civil nuclear trade to take place.

Given the centrality of this issue in the debate, and because it is the centerpiece of this Committee's responsibility, I will focus my remaining remarks on it.

To better comprehend the debate, I have found it useful to divide the issues into three sections. The first concerns whether or not the Civil Nuclear Agreement in itself enhances or undermines U.S. and global non-proliferation policy. If one arrives at a positive conclusion, then support of the overall agreement is axiomatic.

If the judgment is negative, then a second question occurs; namely, are these negative consequences so grave that they outweigh the potential benefits of the overall agreement.

If the judgment is that the asymmetry renders the whole negative, a third question arises; namely, are there changes to the civil nuclear provisions that can be made, that would be sufficient to persuade opponents to support the package as a whole.

Of necessity, the answers to all of these questions are highly subjective, depending upon how one weighs the intrinsic and relative merits of the various provisions, their likely impact, and other considerations. But even subjective conclusions require accurate information and thorough debate if they are to be arrived at responsibly.

I will end my remarks there. I won't offer an exhaustive list of questions, as any observer can easily generate scores of questions on their own. But this briefly-sketched logical progression seems to me to be a good way of approaching the subject that will permit an informed judgment on a subject of great complexity and potentially far-reaching impact.

I now turn to my friend, Tom Lantos, the Ranking Democratic Member, for any remarks he may wish to make.

Mr. LANTOS. Thank you very much, Mr. Chairman. I want to add my warm welcome to our most distinguished Secretary of State.

Mr. Chairman, we are at the hinge of history. After decades of coolness and aloofness, punctuated by occasional hostility, there now is a chance to advance a historic geostrategic realignment of India with the United States. This will be of immense importance to world peace, global security, and economic development.

India and the United States need each other as reliable partners in the war against terrorism, standing shoulder to shoulder in the fight against the proliferation of weapons of mass destruction.

With this proposed agreement, we stand at a threshold. The door could swing open toward the new era of cooperation and joint action. Or, if we fail to seize this opportunity, the door could slam

shut, and undo much of the good work of two American Administrations, one Democratic, one Republican, to strengthen the bonds between the world's oldest democracy and its largest democracy.

This opening has been years in the making, Mr. Chairman. President Clinton's groundbreaking visit to India 6 years ago redefined what was possible in United States-India ties. His vision was carried forth by the current Administration, and by your very creative and bold actions, Madame Secretary, for which I wish to congratulate you.

It is high time that the world's oldest democracy and its largest one recognize that whatever our differences may have been during the decades of the Cold War, they do not apply in the 21st century. We now have powerful, overriding common interests: Combating violent Islamic extremism, ensuring lasting stability in war-torn Afghanistan, battling HIV/AIDS, and fostering rapprochement between India and Pakistan.

But in order to become a strategic ally of the United States, India must recognize some basic facts. Specifically, some facts with respect to Iran. It is a terrorist state whose current regime strives to develop nuclear weapons.

At this Committee's first hearing on the proposed nuclear deal, I and others on this Committee made it clear that a business-as-usual relationship with the current terrorism regime in Tehran is unacceptable behavior by any country seeking to be our strategic partner.

Since then, New Delhi has taken welcome, I am prepared to say unprecedented, steps to support United States efforts to isolate and to pressure Iran diplomatically over its decades-long deceitful actions to acquire nuclear weapons capabilities.

India's two crucial votes in the International Atomic Energy Agency in support of resolutions condemning Iran's deceit, and ultimately referring Iran to the UN Security Council, were the right action for a great democracy such as India. These votes were welcomed in the democratic world, and they were devastating to the Ayatollahs.

A few days ago I had a serious and substantive meeting with the Indian Foreign Secretary. I told him that India must reassure Congress and the American public that it knows well what it means to be a strategic ally of the United States. Any military cooperation with the present terrorist regime in Iran will certainly derail this deal in Congress, and I hope that will not happen.

Recent reports regarding alleged training of Iranian naval cadets during a port visit to India are a case in point. They have the potential to raise questions in the minds of many of us in Congress regarding India's policies toward Tehran. There can be no equivocation on India's part regarding Iran under its current management.

Mr. Chairman, as this Committee meets, India already has both nuclear weapons and civilian nuclear power plants. So we are not here to debate whether India belongs in the exclusive nuclear club; it is a de facto member already.

The question is whether the agreement before us bringing India's civilian program, under the international non-proliferation regime,

represents an improvement over the status quo. It is self-evident that it does.

Some will argue that this agreement would be a death knell of the NPT, the Nuclear Non-Proliferation Treaty. I would point out that the demise of the NPT has been predicted many times, yet it still lives. Its health is based on the fundamental tenet that limiting the number of nuclear states produces a more secure global and local environment. The strength of the regime is fundamentally based on the economic and political muscle of the great powers in this world.

The real threat to non-proliferation does not come from democratic India, but from non-democratic states such as Iran and North Korea, and how the great powers decide to handle them. If we waver, if Russia and China and India decide to tolerate a nuclear Iran rather than prevent its emergence, the non-proliferation regime will wither away, a victim of death by appeasement.

We need India on our side in this fight, not standing on the sidelines. And the agreement reached by our Secretary of State helps along these lines.

Mr. Chairman, it is time we in the United States recognize that India has become a great power, a rising giant of democracy that commands the world's respect. And it is time for India to recognize that its interests lie with the United States and with our allies. India's strength, security, and economic vitality will grow in direct proportion to the closeness of its association with us.

Mr. Chairman, there are many legitimate criticisms of the agreement, and most of them I share. But the task before our Secretary of State was not to come up with a perfect deal; it was to hammer out a compromise that both sides regard as better than the status quo. Every Member of Congress could come up with a more perfect agreement, but we could not sell it to the Government of India. This agreement was a negotiation, which by definition means that compromises were made on both sides.

We have our work cut out, Mr. Chairman, for many months ahead. Let us approach our consideration of the India Nuclear Deal realistically. The Administration will not get all it wants from our Committee, but neither will our Committee get its entire wish list. This is, after all, another negotiation.

And I fully expect that at the end of our discussions, we will have a legislative package that launches a new and exciting era in United States-India relationship. I will do my utmost to bring our two great democracies together.

Thank you, Mr. Chairman.

Chairman HYDE. Thank you, Mr. Lantos. Heretofore we have been entertaining a 1-minute opening statement by Members. But because of the circumstances today, where we have votes impending to be called on the Floor, and we have the Secretary of State with us, we are going to forgo the opening statements and go right to Members questioning, where you will each, when called, have 5 minutes to ask a question, or otherwise consume the 5 minutes.

So we will go to the question. I did my best to cut you out, Madame Secretary. [Laughter.]

But staff reminds me that you came here prepared to tell us about this Indian treaty. So without getting into the Members' time, why, you please proceed.

**STATEMENT OF THE HONORABLE CONDOLEEZZA RICE, THE
SECRETARY OF STATE, U.S. DEPARTMENT OF STATE**

Secretary RICE. I am sorry, I do have a longer statement that I would like entered into the record. But I know that there are many questions, and so I will just make a few opening remarks.

Mr. Chairman, Mr. Lantos, other Members of the Committee, thank you very much for allowing me this opportunity to discuss the U.S.-India Civil Nuclear Cooperation Initiative. We believe that it deserves your support.

We do understand that it is a path-breaking and complex agreement, and so we also understand that it deserves your full consideration. And we want to be partners as you consider it, as well as should you support it.

India's society is open and free, transparent and stable. Its multi-ethnic and multi-religious democracy is characterized by individual freedom and the rule of law. We share common values.

India will soon be the world's most populous nation, and American exports to India have doubled in only the past 4 years. And of course, India is a rising global power that can be a pillar of stability in a rapidly-changing Asia.

India is, in short, a natural partner for the United States.

For too long during the past half-century, India and the United States were estranged by conflicting domestic and foreign policies. Moreover, our non-proliferation policies were a part of that tangle.

I think it is fair to say that our non-proliferation policies toward India have not fully achieved the purpose for which they were designed. They had no effect on India's development of nuclear weapons, nor did they prevent India and Pakistan from testing nuclear weapons in 1998. They contributed little to the lasting regional tensions which brought India and Pakistan repeatedly to the brink of war.

And all of this resulted in a more isolated India, isolated especially from the standards and practices of the nuclear non-proliferation establishment that has been maturing in the decades since the non-proliferation treaty.

Now, consider the future that we could have instead. This initiative will advance international security and enhance energy security, and further environmental protection, and increase business opportunities for both our countries. All of these benefits must be viewed in the still larger, greater context: How this initiative elevates the United States-India relationship to a new strategic level.

The United States and India are laying the foundation for cooperation on major issues in the region and beyond, building on and building up a broad relationship between our peoples and governments. That broad relationship is across multiple fronts: Economic, agricultural, cultural. And we will not, however, be able to fully realize the vision of this broad relationship unless we deal with the problem before us—the impediments associated with civil nuclear cooperation, resolving them once and for all.

The initiative also will enhance energy security. India is a nation of over a billion people, with an economy growing at approximately 8 percent each year. It has a massive and rapidly-growing appetite for energy. It is now the sixth-largest consumer of energy in the world.

Diversifying India's energy sector will help it meet its ever-increasing energy needs, and also ease its reliance on hydrocarbons and the unstable sources of oil and gas, including places like Iran. This would be good for the United States and for India.

The initiative would also benefit the environment. Nuclear energy is clean energy. Providing India with an environmentally-friendly source like nuclear energy is clearly an important goal. India's carbon emissions increased 61 percent between 1990 and 2001, surpassed only by China.

The initiative will also create opportunities for American jobs. Nuclear cooperation will provide a new market for American nuclear firms, as well as assist India's economic development. The initiative could add as many as 3,000–5,000 new direct jobs, and about 10 to 15,000 indirect jobs as we engage in nuclear commerce with India. By helping India's economy to grow, we would help our own.

Finally, this initiative will strengthen the international non-proliferation regime, nuclear non-proliferation regime. We face a basic choice: Either continue to isolate India or engage it on these issues.

The initiative is a strong gain for non-proliferation. The custodian of the non-proliferation regime, Dr. Mohamed ElBaradei, is a strong supporter of this agreement, as are Prime Minister Tony Blair and President Jacques Chirac, both of whom have made public statements. The Russian Government is also supportive.

Now, I want just to note that there have been some important criticisms of this agreement. And I would like to take those head-on and give you our view of those criticisms.

First, India would never accept a unilateral freeze or cap on their nuclear arsenal, though some have suggested that we should have negotiated that. The plans and policies of India take into account regional realities, and no one can credibly assert that India would accept what would amount to an arms-control agreement unilaterally that did not include other key countries—namely, China and Pakistan.

Second, the initiative with India does not seek to renegotiate or amend the NPT. India is not, and is not going to become, a member of the NPT as a nuclear weapons state. We are simply seeking to address an untenable situation.

India has never been a party to the NPT, but this agreement does bring India into the non-proliferation framework, and thereby strengthen the broad non-proliferation regime.

Third, civil nuclear cooperation with India will not lead to an arms race in South Asia. Nothing we or any other potential international suppliers would provide to India under this initiative would enhance its military capacity or add to its military stockpiles.

Moreover, the nuclear balance in this region is a function of political and military matters. We are far more likely to be able to influence those, the regional dynamics of this important region,

from a position of strong relations with India, and indeed strong relations with Pakistan.

Fourth, this initiative does not complicate our policies toward countries like North Korea or Iran. It is simply not credible to compare India to North Korea or to Iran.

While Iran and North Korea are violating their IAEA obligations, India would be making new ones, by bringing the IAEA into the India program, and seeking peaceful international cooperation. Iran and North Korea are closed, non-democratic societies. India is a transparent and open democracy.

In fact, India is increasingly doing its part to support the international community's efforts to curb the dangerous nuclear ambitions of the Iranian regime.

The U.S.-India Civil Nuclear Cooperation Initiative is a strategic achievement. It is good for America, it is good for India, and it is good for the international community. President Bush and I look to Congress as full partners in this initiative.

Your support is crucial for this legislation, and we ask that you lend it. Together we can seize this tremendous opportunity to solidify a key partnership that will advance an American interest and the ideals of peace, prosperity, and liberty that two great democracies could pursue together.

Thank you, Mr. Chairman, distinguished Members of the Committee. And I am now pleased to respond to your questions.

[The prepared statement of Secretary Rice follows:]

PREPARED STATEMENT OF THE HONORABLE CONDOLEEZZA RICE, THE SECRETARY OF STATE, U.S. DEPARTMENT OF STATE

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today. I am pleased to discuss with you why President Bush and I think that the U.S.-India Civil Nuclear Cooperation Initiative deserves the support of the United States Congress.

On March 2 in New Delhi, the United States and India reached a historic understanding on civil nuclear cooperation. This strategic achievement will advance energy security, further environmental protection, foster economic and technological development in both of our countries, bolster international security, and strengthen the global nonproliferation regime. All of these benefits, however, must be viewed in a still larger, still greater context: What this initiative does to elevate the U.S.-India relationship to a new, strategic height.

Recall for a moment where we were before this initiative. For too long during the past half century, differences over domestic policies and international objectives kept India and the United States estranged. We had a bedeviled relationship, a structural ambivalence between the world's leading democracy and the world's largest democracy. For years, relations between our two countries were constrained, thereby limiting America's ability to shape a productive future for South and Central Asia, which will be one of the most dynamic regions in the 21st century.

Our past nonproliferation policies toward India had not achieved their purposes. They had no effect on India's development of nuclear weapons. Nor did they prevent India and Pakistan from testing nuclear weapons in 1998. They had contributed little to lessening regional tensions, which brought India and Pakistan repeatedly to the brink of war.

These policies also left us with a more dangerous energy future. They effectively forced India to rely on oil and gas from Iran and the Persian Gulf, or on destabilizing competition over waterways to produce hydroelectric power.

All of this resulted in a more isolated India—isolated especially from the standards of the nuclear nonproliferation establishment, prevented from reaping the benefits of a long history of global cooperation. This left India fostering insular and resentful attitudes, protecting a sheltered nuclear industry.

When President Bush came into office, he judged that our relations with India would be central to the future success of U.S. foreign policy in South Asia and around the world. He resolved to transform our relationship with India, and in the

past five years, that is exactly what we have done. The world's oldest democracy is now building a global partnership with the world's largest democracy. As the President said in New Delhi: "India in the 21st century is a natural partner of the United States because we are partners in the cause of human liberty."

This partnership is founded on common interests and shared ideals:

- *Democracy*: India's society is open and free, transparent and stable. It is a vibrant, multi-ethnic, multi-religious democracy characterized by individual freedom, the rule of law, and a constitutional government that owes its power to free and fair elections. It is a positive model in the international community.
- *Security*: India is a rising global power and a pillar of stability in a rapidly changing Asia. India will continue to possess sophisticated military forces that, just like our own, remain strongly committed to the principle of civilian control, and will in the future help to promote peace in Asia and across the world.
- *Prosperity*: India is committed to economic liberty and strong growth. It has an immense, skilled, and youthful workforce. It will soon be the world's most populous nation, with the world's largest and fastest growing middle class. By 2025, India will most likely rank among the world's five largest economies. American exports to India have doubled in only the last four years.

Developing civil nuclear cooperation with India represents the promise of this new partnership—a partnership that will become one of the most important we have with any country in the 21st century. Recall again where we were with India before we launched this initiative: a conflicted relationship, the wrong energy incentives, and a failed nonproliferation policy. Today, I want to discuss what we can have instead: a strategic partnership, enhanced energy security, greater environmental protections, increased business opportunities, and of course, a more secure future.

Taken together, the before and after comparison is compelling: This initiative is good for America. It is good for India. And it is good for the international community. So let us move forward with it.

The U.S.-India Civil Nuclear Cooperation Initiative

Before I turn to the benefits of our Civil Nuclear Cooperation Initiative, let me first run through the specifics of the initiative itself. The basic agreement is this: India has pledged, for the first time in 30 years, to submit its entire civil nuclear program to international inspection and to take on significant new nonproliferation commitments in exchange for full civil nuclear cooperation with the international community. With this initiative, the world is expecting India to be a full partner in nonproliferation, and India is expecting the world to help it meet its growing energy needs.

Specifically, India has agreed to place all future civil reactors—both breeder and thermal—under permanent International Atomic Energy Agency (IAEA) safeguards and to continue its unilateral moratorium on nuclear testing. India will also place a majority (14 out of 22) of its existing and planned power reactors under safeguards by 2014. Under this initiative, 65 percent of India's thermal reactors will be brought under safeguards, a figure that the Indian government has said could rise as high as 90 percent as India procures more civil reactors in the next 15 years. To put this in perspective, imagine the alternative: Without this initiative, 81 percent of India's current power reactors—and its future power and breeder reactors—would continue to remain outside of IAEA safeguards. The Indian nuclear power program would remain opaque, a nuclear black box.

Once this initiative is implemented, potential American and international suppliers will be able to invest in India's safeguarded civil facilities solely for energy production and other peaceful purposes. The safeguards required by this initiative are designed to help detect, and thereby help prevent, the diversion to military use of any materials, technologies, or equipment provided to India's civil nuclear facilities. Once a reactor is under IAEA oversight, safeguards will be in place permanently and without any conditions.

But that is not all. The Indian government will negotiate and sign an Additional Protocol with the IAEA, and it will work with the United States to conclude a multilateral Fissile Material Cutoff Treaty. India has also agreed to create a robust national export control system that includes harmonization with and adherence to the Missile Technology Control Regime and Nuclear Suppliers Group guidelines. Finally, India will continue its unilateral moratorium on testing and refrain from transferring enrichment and reprocessing technologies to states that do not possess them. Just last June, as part of our ongoing discussions on civil nuclear cooperation, India's parliament passed a landmark WMD export control law that significantly

upgraded and improved India's ability to counter the proliferation of materials related to weapons of mass destruction. This law makes such proliferation a crime in India, just as it is in the United States.

For this initiative to go forward now, both parties must meet their obligations. For our part, President Bush is committed to work with the U.S. Congress to amend relevant domestic laws—the Atomic Energy Act of 1954—and to seek agreement within the Nuclear Suppliers Group to accommodate this cooperation. The United States will also negotiate an agreement on peaceful nuclear cooperation with India, which we will submit to the Congress, and seek to assure the reliable supply of nuclear fuel to India through multiple avenues and instruments.

India has commitments as well, and it is already acting on them. In fact, the Chairman of India's atomic energy commission is traveling to Vienna this week to begin negotiations with the IAEA on both a safeguards agreement and an Additional Protocol. India has delivered to us a list of specific reactors to be placed under safeguards and a general timeline for doing so. Under this plan, all 14 reactors will be offered for safeguards by 2014. In addition, India will place associated upstream and downstream facilities under safeguards and has declared nine research facilities as civilian. India has also provided initial verbal comments on our draft agreement for peaceful nuclear cooperation.

In the coming months, we hope that India will also take a number of additional measures to further strengthen its commitment to global nonproliferation. In addition to adhering to the Missile Technology Control Regime and Nuclear Suppliers Group Guidelines, as India committed in the July 18 Joint Statement, these additional measures include, for example, announcing its intention to participate in the Proliferation Security Initiative and harmonizing its export control lists with the Wassenaar Arrangement and the Australia Group. We are in constant discussion with our Indian counterparts and will continue to press these and other non-proliferation measures through the course of our strategic partnership.

Mr. Chairman, as you know, implementing this initiative will require a carefully orchestrated series of events involving the coordination of not only the two governments, including the U.S. Congress, but also the IAEA and the Nuclear Suppliers Group. It is our vision and our hope that progress can be achieved on several fronts simultaneously.

Once implemented, this initiative with India will benefit the United States in five important and linked ways:

First, the Initiative will deepen our strategic partnership.

This initiative is a key element of our growing strategic partnership with India: we believe it will help make India one of our most valuable global partners and help make possible significant achievements in many other areas of cooperation.

More than two million Indians, many of them now U.S. citizens, live in the United States. More Indians study in our universities than students from any other foreign country. India is the largest source of skilled temporary workers coming to the United States and the second largest source of legal migration. The United States and India have committed to doubling bilateral trade within three years.

The explosive growth of private ties between our peoples is magnified by new initiatives between our governments. Last summer's historic summit between the President Bush and Prime Minister Singh embodied the strategic achievements of the first four years of our nations' new relationship. The President's recent visit to India has shown how much more can be accomplished. Both leaders committed themselves to fostering a second Green Revolution in agriculture, to advancing space exploration, and to establishing a new science and technology partnership. They pledged to increase democracy promotion efforts, to invest in energy security, and to double bilateral trade within three years. And they decided to expand defense cooperation through a new maritime security initiative.

In other words, the United States and India are laying the foundation for cooperation on major issues in the region and beyond, building on and building up a broad relationship between our peoples and our governments. We will not fully realize this vision, however, unless the impediments associated with civil nuclear cooperation, which have complicated all efforts to improve bilateral relations during the last thirty years, are resolved once and for all. The structural ambivalence must be resolved. This initiative is the key that will unlock the progress of our expanding relationship.

And imagine, Mr. Chairman, what would happen if this initiative were defeated, or changed in a way that fundamentally alters its substance. All the hostility and suspicion of the past would be redoubled. And think of Prime Minister Singh, who has braved the shouted dissent of his anti-American critics. We would hand the enemies of this new relationship a great victory. We would slide backward when we should be striding forward.

Second, the Initiative will enhance energy security.

The global search for new and stable sources of energy is now a defining issue in all aspects of international life. Civil nuclear cooperation with India will help it meet its rising energy needs without increasing its reliance on unstable foreign sources of oil and gas, such as nearby Iran. Diversifying India's energy sector will help to alleviate the competition among India, the United States, and other rapidly expanding economies for scarce carbon-based energy resources, thereby lessening pressure on global energy prices.

India—a nation of over a billion people, with an economy growing at approximately 8 percent each year—has a massive and rapidly growing appetite for energy. Huge population growth, expanding industrial production, economic development, urbanization, and increased motor vehicle ownership are all driving this insatiable energy demand. Between 1980 and 2001, demand increased by 208 percent. By contrast, China, often thought of as the next big energy consumer, saw a 130 percent increase over the same period. In 2003, India was the sixth largest consumer of energy in the world behind only the United States, China, Russia, Japan, and Germany.

To meet its mounting power demands, the Indian government plans to double its capacity to produce electricity within the next eight years. With Congressional endorsement of the U.S.-India Civil Nuclear Cooperation Initiative, a large proportion of that growth would be in clean nuclear technology.

Currently, over 50 percent of India's total energy, and 70 percent of India's electric power generation, is derived from coal. Of the remaining 50 percent, nearly 35 percent is derived from oil; seven percent from natural gas; five percent from hydroelectric power; and about one percent from renewable sources like solar and wind. Only two percent of India's total power generation comes from nuclear energy. To put this in perspective, even the United States, which has historically limited nuclear energy use, derives over 20 percent of its power from nuclear energy. Japan derives 30 percent, and France roughly 78 percent.

India's operating civil nuclear power plants currently have approximately 3,310 megawatts of installed capacity. Given the opportunity, India plans to invest quickly in additional civil nuclear reactors so that, by 2020, its capacity to produce electricity from clean nuclear technology would reach 20,000 megawatts—a six-fold increase. Under this plan and further long-term objectives, approximately 20 percent of India's total energy production would eventually be met by nuclear technology, thus significantly decreasing the growth in its reliance on fossil fuels.

Since the historic March 2 announcement, senior officials in India's atomic energy establishment have indicated their desire to exceed the 20,000 megawatts target through the accelerated import of high-unit capacity foreign reactors to further reduce their dependence on dirty coal and fossil fuels. This decrease will be welcome, as India's demand for oil and natural gas is immense and will only increase as its economy grows and industrializes. In 2005, India's net imports of oil totaled approximately 1.7 million barrels per day. Even with conservative estimates, these imports are predicted to grow to 2 million barrels per day within only the next four years. Much of that oil is imported from unstable sources. As part of the newly launched, U.S.-India Energy Dialogue, the United States has committed to help India secure other stable sources of energy. The Civil Nuclear Cooperation Initiative is one significant element of that commitment.

Third, the Initiative will benefit the environment.

Civil nuclear cooperation, along with the deployment of cleaner fossil fuel technologies, will not only help India meet its energy needs, but it will do so in an environmentally-friendly way. India's heavy dependence on coal and oil for electricity generation has another negative side effect: high levels of carbon emissions, which have made India a major contributor to greenhouse gas emissions and global climate change. Between 1990 and 2001, India's carbon emissions increased by 61 percent, a rate of growth surpassed only by China. Extrapolating from these trends, scientists expect that this will only get worse. According to the Department of Energy, between 2001 and 2025, India's carbon emissions will grow by 3 percent annually, twice the predicted emissions growth in the United States. Air pollution and growth in greenhouse gases is a visible and significant fact of life in India's major cities.

India's dependence on its domestically-produced coal raises many other environmental concerns. Indian coal is extremely energy inefficient. It produces about twice as much ash and particulate matter as American coal. And it emits far more nitrogen oxide (an element in photochemical smog) and carbon monoxide (a poisonous gas) than American coal does. Power plants are also the main source of Indian emissions of carbon dioxide, the most important greenhouse gas. In addition, mercury emissions from India's inefficient coal-fired plants can enter the food chain.

These high emissions, along with emissions from other sources, have made all four of India's largest cities—New Delhi, Mumbai, Chennai and Kolkata—among the most polluted in the world. Emissions from power plants are thought to be the prime contributor to the Atmospheric Brown Cloud now hovering over the Bay of Bengal and polluting many coastal areas. If this cloud grows and moves overland, as is currently expected, the resulting effects on public health would be disastrous. The health risks associated with India's pollution are thus negatively affecting not only the Indian population, but the population of the entire region.

While the United States is working with India to integrate cleaner, more efficient, coal-burning technologies into its power plants, a rapid expansion of India's coal-fired generating capacity, just to meet basic energy needs, would make that work much more challenging. Slowing this expansion will help us achieve our aggressive objectives for slowing the growth in Indian pollution.

To the extent that India expands its use of cleaner energy technology, the result will be reduced air pollution locally, regionally, and globally. Nuclear plants do not emit greenhouse gases. While some opponents of nuclear energy point to the problems associated with disposing of spent nuclear waste, the technology is readily available to store nuclear waste safely for thousands of years and prevent it from contaminating the surrounding environment. India's commitment to a closed cycle also permits it to manage its nuclear waste far more effectively while simultaneously utilizing the energy potential of its feedstock far more effectively.

Of course, the Civil Nuclear Cooperation Initiative alone will not fully address Indian emissions of air pollution and greenhouse gases. It does, however, take a sizeable step in the right direction. Civil nuclear cooperation will advance the goals of the Asia-Pacific Partnership on Clean Development and Climate and is also an important piece of our Energy Dialogue, which aims to address India's energy needs from every perspective. As a critical step in reducing the growth of India's heavy dependence on coal and its greenhouse gas emissions, our civil nuclear initiative would be one of the greenest parts of India's new Green Revolution.

Fourth, the Initiative will create opportunities for U.S. business.

This is a time of renaissance in the Indian-American relationship, punctuated by our tremendous growth in trade. In the past year alone, Boeing announced a \$13 billion sale to India, and Cisco, Intel, and Microsoft all made major investments in India's high-tech sector. In July, when Prime Minister Singh visited Washington, he and President Bush announced the most ambitious strategic leap ever undertaken by our two governments, illustrated by joint ventures in 18 different fields, including the Civil Nuclear Cooperation Initiative.

At its core, our initiative with India is not simply a government-to-government effort. It was crafted with the private sector firmly in mind. Because it will fully open the door to civil nuclear trade and cooperation, this initiative is good for American business.

India currently has 15 operating thermal power reactors, with seven under construction, but it intends to increase this number significantly. Meeting this ramp-up in demand for civil nuclear technology, fuel, and support services holds the promise of opening new business opportunities for American firms, which translates into new jobs, new incomes, and new markets for the United States. Indian officials indicate they plan to import at least eight new 1,000 megawatt power reactors by 2012, as well as additional reactors in the years ahead. Preliminary private studies suggest that if American vendors win just two of these reactor contracts, American industry estimates it may add 3,000–5,000 new direct jobs and about 10,000–15,000 indirect jobs in the United States.

At the same time, participation in India's market will help make the American nuclear industry globally competitive, thereby benefiting our own domestic nuclear power sector. This legislation, and the associated bilateral peaceful nuclear cooperation agreement now being negotiated, will permit U.S. companies to enter the lucrative and growing Indian market—something they are currently prohibited from doing.

An expanded Indian civil nuclear power industry will also help to take the pressure off the long-term global demand for energy. Increasing demand for natural resources causes our own energy prices to rise as well. To the extent that we can reduce the demand for fossil fuels, it will help the American consumer.

Furthermore, this initiative will also significantly help India's economic development. Human development and economic growth depend on the reliable, affordable, and environmentally-friendly supply of energy to allow for the full production of goods and services. India is struggling to keep up with its energy demands, with many urban areas currently subject to unscheduled black-outs and routine daily interruptions of power. In 2005, there was an average electricity shortage of 10 per-

cent and a peak excessive power demand of 15 percent. These shortages are expected to become more severe, thus preventing India's growing business and industry from functioning effectively. Such unreliability is detrimental to India's economic growth and its prospects for greater foreign investment. The Civil Nuclear Cooperation Initiative would provide India access to a privatized and more efficient nuclear energy market, enabling its economy to grow to its full potential. Needless to say, as India grows, it provides an ever bigger market for American exports. So by helping India's economy, we are in turn helping our own.

Finally, the Initiative will enhance the international nuclear nonproliferation regime.

Mr. Chairman, let me address the issue that has received the most attention since this initiative was announced: nuclear nonproliferation. I will start by saying unequivocally that this initiative is a net gain for global nonproliferation efforts. We better secure our future by bringing India into the international nonproliferation system, not by allowing India to remain isolated for the next thirty years the way it has been for the last thirty. We are clearly better off having India most of the way in rather than all the way out.

There are some who doubt this, and I would now like to discuss some of the questions that have been raised about this initiative.

First, I must address the belief that somehow this initiative could have been used to force India to accept a unilateral freeze or cap on its nuclear arsenal. The U.S. has achieved an important strategic objective by obtaining India's commitment to work toward a multilateral Fissile Material Cut-off Treaty. But India's plans and politics must take into account regional realities. No one can credibly assert that India would accept an arms control agreement that did not include the other key countries, namely China and Pakistan. Therefore trying to use American leverage to get India to make this unilateral move is an idea that is certain to fail. It is a poison pill to kill any possibility for change.

Second, some have expressed concern that civil nuclear cooperation with India will weaken the NPT, or undermine global nonproliferation efforts. Dr. Mohamed ElBaradei, the Director General of the IAEA—the agency responsible for applying safeguards—does not share this concern. Just the opposite. Dr. ElBaradei publicly praised the initiative the day it was announced, stating that it will “bring India closer as an important partner in the nonproliferation regime. . . . It would be a milestone, timely for ongoing efforts to consolidate the nonproliferation regime, combat nuclear terrorism and strengthen nuclear safety.” Four of the five NPT-defined nuclear weapon states have also endorsed the initiative. In fact, British Prime Minister Tony Blair and French President Jacques Chirac even released public statements in which both refer to the benefits that this initiative has for international nonproliferation efforts.

The global nonproliferation regime is a remarkable diplomatic achievement. Since its inception, the NPT and related international mechanisms have helped keep the number of nuclear-armed states to a minimum while spreading the benefits of civil nuclear technology to all who joined the treaty. We want India to participate more fully in sharing this global responsibility. This initiative aligns India more closely with international nuclear nonproliferation standards.

Our initiative with India does not seek to renegotiate or amend the NPT. India is not, and is not going to become, a member of the NPT as a nuclear weapon state. Nothing we are proposing would violate our NPT obligations that we not “in any way assist” India's nuclear weapons program. We are seeking to address an untenable situation: India has never been a party to the NPT. It did not cheat. It simply developed nuclear weapons outside this context, a long time ago, finishing a program that was well underway before the NPT had been signed. India then found itself frozen for a generation in this anomalous state. It now faces substantial energy needs ahead that can be partly met through nuclear energy.

Despite India's strong nuclear nonproliferation export record, its continued existence outside the global nonproliferation regime undermines the regime's interests and U.S. security goals over the long term. The real choice is this: do we want a state that intends to expand significantly its civil nuclear power production in the years ahead to remain outside the international nonproliferation regime? Or do we instead want it to adopt global nonproliferation practices while increasing our insight into its civil nuclear program? President Bush has made his choice, and it is the correct one.

Third, others have asserted that this initiative permits India to expand its nuclear arsenal significantly. This is just not the case. The initiative does not cap Indian nuclear weapons production, but nothing under this initiative will directly enhance its military capability or add to its military stockpile. India could already build additional weapons within the limits of its capabilities if it so desired, with or without

this deal. But the Indian government has repeatedly confirmed in public that it intends to expand its civil nuclear energy capability.

Fourth, we believe that civil nuclear cooperation with India will not lead to an arms race in South Asia. In our view, the prospects for such an arms race will be determined by bilateral relations between India and Pakistan, not the Civil Nuclear Cooperation Initiative. It should be noted that these relations have been consistently improving for the past three years. The ongoing Composite Dialogue between India and Pakistan has significantly reduced tensions and built confidence on both sides. Just last week, Prime Minister Singh spoke of the desirability of a treaty of peace, security, and friendship between India and Pakistan, which Pakistan immediately welcomed.

To further improve relations and ensure strategic restraint on both sides, the United States is prepared to intensify significantly our diplomatic effort with both India and Pakistan. Continuing to improve our relations with both India and Pakistan will allow us to promote peace and counsel restraint in their military procurement plans.

Fifth, some have argued that the initiative with India will undermine our efforts to curb Iran and North Korea's nuclear ambitions, because it creates an alleged "double standard." This is simply not credible, because comparing India to the North Korean or the Iranian regime is not credible. India is a democracy, transparent and accountable to its people, which works within the international system to promote peace and stability and has a responsible nuclear nonproliferation record. The regime in Iran is a state sponsor of terrorism, with a long record of cheating on its nuclear obligations to the international community, and it is violating its own nuclear obligations at present. North Korea is the least transparent government in the world, which threatens its neighbors and proliferates dangerous weapons. While Iran and North Korea are violating their IAEA obligations, India is making new ones and seeking peaceful international cooperation. So we do indeed treat India differently from the way we, and the international community, treat Iran and North Korea.

France, the United Kingdom, and Russia support our initiative with India, and we are all working closely together to curb the dangerous nuclear ambitions of the Iranian regime. India is increasingly doing its part to support the international community's efforts. Recall that India not once, but twice, stood with the United States and other nations against illegal proliferation by voting in the IAEA to find Iran not in compliance with its obligations and, later, to report Iran's nuclear violations to the UN Security Council. Prime Minister Singh faced down his anti-American critics at home to take these actions.

It's important to keep in mind that this initiative was not easy for Prime Minister Singh, though he has won support for it across India's major parties. But it is worth thinking about why this was tough for him. It was not because of the concerns mentioned here. The opposition in India wants to keep more distance from America. It wants to keep India's industry sheltered and protected. Surely those are not our goals. Surely Congress will not want to inadvertently miss this opportunity to make this strategic leap forward.

Seizing Our Opportunity with India

I want to thank you, Mr. Chairman and Mr. Lantos, for introducing H.R.4974, which represents President Bush's proposed legislation to facilitate authorization of civil nuclear cooperation with India. This legislation asks Congress to amend the 1954 Atomic Energy Act. This will let American firms provide nuclear goods and services to India's civil nuclear program, something that is prohibited by current law. In addition, we will ask the Nuclear Suppliers Group to make a special exception for India to allow for full civil nuclear cooperation.

Congressional action on this legislation is critical in our efforts to secure broader international support for this new relationship with India. Foreign governments are looking to Congress to determine whether the United States stands solidly behind a new relationship with India. Prompt Congressional action will ensure that there is a solid basis for reliable, long-term cooperation with India. It will also assure U.S. industry of a solid framework for civil nuclear trade with India, at no competitive disadvantage with other nations.

Mr. Chairman: During his speech in New Delhi last month, President Bush spoke of his desire to "strengthen the bonds of trust between our two great nations." As we forge this bond, President Bush and I look to the Congress as a full partner in this initiative. Your support is crucial for this legislation. And we ask that you offer it. Together, we can seize this tremendous opportunity to solidify a key partnership that will advance American interests, and the ideals of peace, prosperity, and liberty for which we stand.

Thank you, Mr. Chairman, Mr. Lantos, and Distinguished Members of the Committee. I would now be eager to respond to your questions.

Chairman HYDE. Thank you, Madame Secretary. Mr. Wilson of South Carolina.

Mr. WILSON. Thank you, Mr. Chairman. What a surprise to be first.

Madame Secretary, thank you so much for being here today. I particularly appreciate your efforts to promote a better relationship with India.

I had the great fortune of serving in the last Congress with Congressman Crowley of New York as Co-Chair of the India Caucus, the largest caucus on Capitol Hill, reflecting the appreciation by Members of Congress of the importance of India and Indian-Americans.

I also am glad today to hear the bipartisan comments of Congressman Lantos. He and I are in constant competition to see who is the most optimistic. And I will be darned if he didn't win again today, pointing out correctly that this is the hinge of history. What we are working on, and again in a bipartisan manner, has been achieved, promotes world peace, security, development.

And so, Congressman, thank you for your efforts.

I really have an appreciation of India, because my dad served there during World War II. As I was growing up I heard how hard-working the people of India are, how entrepreneurial. And now, with the victory in the Cold War, the fruition of our relationship can truly come together.

You really have jumped ahead. Your opening comments answered my questions of how, working with colleagues, we can explain how this promotes non-proliferation. And I look forward to getting these comments, along with Congressman Crowley, to all of our colleagues.

Additionally, you have also answered the questions that I was going to ask about economic benefit. And indeed, you pointed out the doubling of our trade relationship last year, a 30-percent increase in exports from the United States to India, how this helps us with mutual energy independence, even a cleaner environment.

You further, though, have indicated that this agreement is an essential step toward our goal of transforming America's partnership with India.

To what extent of the relationship that we have between the United States and India would our relations be set back if this agreement is not reached?

Secretary RICE. Thank you very much, Congressman. I think it would be a significant setback to our efforts to deepen and broaden our relationship.

If you think about this from the perspective not just from the non-proliferation regime, although I think it does help considerably to broaden and deepen that overall regime. The two key things here are to be able to engage in energy and technology cooperation with India that is good for our economy, good for their economy. And so it is at the core, in many ways, of making life better for Indians, and ultimately for Americans.

It is also at the core of environmental cooperation, because we are currently unable to work with the Indians on civil nuclear technology, and on next-generation civil nuclear technology.

All of us want to use a diversification of energy to get us out of the business of chasing hydrocarbons. I can tell you that I have been in many ways even surprised, as Secretary of State, by how really warping of diplomacy the mad rush for energy supplies has become. People are just, the appetite for energy is so great. And many of those resources are held by countries with which we have a lot of problems politically.

And so on the energy side, on the environmental side, on the economic side, this agreement unlocks cooperation that is key to all of those elements, and therefore is much more important to the overall relationship than just the title civil nuclear cooperation would suggest.

Mr. WILSON. And in my recent visit to India, I saw the great need of infrastructure. And basic to that would be electrical energy production.

And so not only would our trade be enhanced by, as you just identified, but overall in terms of roads and water/sewer, and the basic infrastructure of the country.

And again, thank you for all that you are doing. We are so proud of your efforts to promote a better relationship between India and the United States.

I now defer back to the Chairman.

Secretary RICE. Thank you, Mr. Wilson.

Chairman HYDE. Thank you, Mr. Lantos of California.

Mr. LANTOS. Thank you, Mr. Chairman. Madame Secretary, since I told you both privately and publicly that I intend to support the agreement, if you will allow me, I would like to raise a question about another subject.

You have indicated that you will look into reports that Russia provided Iraq, prior to our invasion, with secret military plans. Are you able to give us some indication as to where your study is at the moment, and what we have found out?

Secretary RICE. Of course, Congressman Lantos. I have talked personally with the Russian Foreign Minister, first to request that they look into it, and then I saw him recently when I was in Berlin. He passed to me a letter that the Russian Government does not believe that these contacts took place.

They have talked to the Ambassador at the time. He told me that he believes that any such contacts would have been highly inappropriate for an Ambassador of Russia to have engaged in with Iraq.

Of course, we will continue to look into the matter. We are looking, of course, at the document itself, and trying to ascertain how really reliable it is. But that is the report that I have thus far from the Russian Government.

But obviously, because we would take very seriously any suggestion that a foreign government would have passed information that might have endangered our troops on the eve of war, we will continue to hunt for information. And if we turn up anything else, we will give that to the Russian Government. But that is the answer that they have given us thus far.

Mr. LANTOS. As you well know, a number of us, both in this body and in the Senate, are singularly concerned about the scheduled summit of the G-8 in St. Petersburg. And a number of us are considering the possibility of suggesting to our Administration and to the other G-7 that a meeting prior to the G-8 take place that would bring together the true democracies in this grouping before meeting with Russia in St. Petersburg.

This information concerning the possibility of Russia providing secret military information to Saddam Hussein's regime would be very helpful and a very necessary part of our decision-making. We would be very grateful if you could make it available to us as soon as possible.

Secretary RICE. I will do that. I will respond formally by letter.

Mr. LANTOS. Thank you, Mr. Chairman. Thank you, Madame Secretary.

Chairman HYDE. Mr. Barrett of South Carolina.

Mr. BARRETT. Thank you, Mr. Chair. Madame Secretary, thanks for being here today.

In my office, Madame Secretary, we have received a good bit of correspondence on the impact of the non-proliferation treaty, and you have touched on that somewhat. But I want to just ask a couple of questions.

The partnership itself, again, you went into a little bit. But what about the relations that we have with, say, a China? Or say, a Pakistan? I mean, what type of effect is it going to have on the relationships with some of these countries?

And I guess the other question is, what is India's plan for nuclear weapons? Did you all discuss any of that? And if you could go into that a little bit, I would appreciate it.

Secretary RICE. I am sorry?

Mr. BARRETT. India's plan for nuclear weapons.

Secretary RICE. Yes. Thank you. In terms of relations with other countries, there is, first of all, the matter of the nuclear suppliers group, where four of the five permanent nuclear powers support this agreement.

China has reserved, at this point, on it. They have not said that they do not support it; they have said they have some questions. I would just note that of course China and India do have an improving, but still not a completely satisfactory, relationship, and I would just note that.

But we are making available to all the members of the nuclear suppliers group the supporting documentation as to why we think this is a good deal.

In terms of Pakistan, we were in Pakistan the day after this agreement was announced. We had a very serious conversation with the Pakistanis. I think Pakistan knows that it is not, for reasons of history, of its nuclear history, in a position to have something similar to this. They effectively know that the proliferation concerns that we have with Pakistan are quite unlike the proliferation record of India.

Moreover, we are discussing with Pakistan other sources of energy diversification, including renewables. And so that is a healthy discussion that is going on.

In general, my view, and the view of the Administration, is that this is a path-breaking deal. And so people will stop to ask questions, as you are doing, as others are doing. But increasingly, when they look at it, they come to the conclusion that Prime Minister Howard did in Australia, which is that it is a good deal. And what its implications are for Australian policy is a different matter, but it is a good deal.

And I think that as we have a chance to talk about it, as this debate goes on about the legislation, you will see more and more people understanding how important it is that we finally resolve this anomaly in the international system. We have a state in India that is not a part of the NPT, but that has been a responsible actor with its nuclear technologies.

Now, as to India's nuclear weapons program, clearly this agreement does not constrain India's nuclear weapons program. That was not its purpose, though we raised it with the Indians. Neither, however, as some critics have suggested, does it enhance India's capability to build nuclear weapons.

India has about, by most estimates, 50,000 tons or so of uranium in its reserves. That means that the very small percentage of that that would be needed for military program they could get certainly without this agreement.

But what this agreement does is it takes a situation in which now very few Indian reactors are under any kind of safeguard, it puts two-thirds of India's reactors under safeguards, it puts all future civilian reactors under safeguards. Because of the pressures for India to expand its civilian programs, the Indians estimate that this could, within a decade or so, put as much as 90 percent of their reactors under safeguards.

And as Mohamed ElBaradei has noted, because it brings the IAEA finally into sustained contact with the Indian program, it opens up this program in ways that it has currently not been opened up. But I think those are the values to the non-proliferation regime that others are beginning to see.

Chairman HYDE. Mr. Berman of California.

Mr. BERMAN. Thank you, Mr. Chairman. Thank you, Madame Secretary.

To use your testimony as the framework for my questions, I find the first four arguments for the support of this agreement to be quite compelling, particularly the arguments about the strategic partnership and energy security.

Where I would like to push back a little bit is on the fifth, the contention that the initiative will enhance the international nuclear proliferation regime. So I would like to ask you several questions, and maybe I will do them all. It will help to at least get my questions in, if not your answers.

All five nuclear weapons states have halted the production of fissile material. This deal does not limit India's production of fissile material.

The reason I raise the issue about whether it enhances or not is that many argue that it significantly expands India's production capability because it allows India to import uranium to fuel its civilian nuclear plants, thereby freeing up what I am told—which I gather you may disagree with, but what I am told—is essentially

a scarce domestic uranium supply. That they can now put all of that into weapons production.

The July 18 statement says President Bush and Prime Minister Singh note that India is prepared to assume the same responsibilities and practices, and acquire the same benefits and advantages as other leading countries who have advanced nuclear technology.

Isn't there a fundamental contradiction between this statement and India's unwillingness to freeze the production of fissile material, as the five nuclear weapons states have done?

Along those lines, in the negotiations we sought to provide IAEA safeguards to all but two reactors, which, in practice, would have limited India's production of fissile material to an amount sufficient for approximately five nuclear weapons a year.

As detailed in recent press reports, the Administration ended up conceding on nearly each of the points we came in negotiating, and the Indians got almost everything they wanted in this deal. Why did that happen?

Third, does it really make sense to have a specific legal carve-out for India? Can't we achieve all the purposes that you testified to, particularly those first four, by establishing a set of—India is not going to give up the bomb, you are right. And it is silly to hold onto some construct that makes no sense in terms of the real world. And India is different than Iran and North Korea; I agree with that, as well.

But doesn't it make sense to establish a set of objective criteria that would have to be met by non-NPT members to qualify for U.S. nuclear cooperation? So thereby you avoid the appearance of doing a special favor for a friend, which is only to be avoided because it will then keep other countries from wanting to emulate that same special exception for their friends? I heard China and Pakistan mentioned earlier.

What is wrong with that generic approach, which would still allow the nuclear cooperation, but apply to people who met the test, to show that they are not India, Iran, or even Pakistan?

And then my final question is, in that same statement India commits to working with the United States for the conclusion of a multilateral fissile material cut-off treaty. Are those just words? Is the Administration serious about negotiating such a treaty? If it is not, then the Indian statement doesn't have much value.

And given that the Administration opposes any verification mechanism in such a treaty as inherently unworkable, why is that more than just words, that neither India nor the United States is serious about pursuing such a treaty?

Secretary RICE. Thank you very much, Congressman Berman.

First of all, in terms of the fissile material cut-off treaty, and I think it relates to the issue of the unilateral moratoria that are in place on the production of fissile material, yes, we will continue to encourage India to participate in such. But of course, India's strategic context is different than the five major nuclear powers, and I think we have to understand that. There is a regional context here which involves the relationship with Pakistan.

I would note that we do not believe that the constraint on India's nuclear program is the availability or absence of nuclear material.

With 50,000 tons of uranium available to them, only a very small percentage of that would be needed for a military program.

But of course, for a civil nuclear program, one needs a considerable and continuous supply of nuclear material and fuel. And that is why we believe that we can assess that the incentives are all on the civilian side. To get fuel to fuel a large civilian nuclear program does take a lot of material. It really takes not very much material at all to have a military program.

The constraint, it seems to us, on the Indian nuclear program is rather the politics and the regional politics, military and other, the security situation in the region. And I think most experts would agree that the Indian program has been pretty restrained. It is not a large program. I don't want to go into numbers, but it is not a large program.

And we are of the belief that in this region, the politics, the diplomacy of the region is moving in a direction in which the underlying political tensions and adversarial relationship between Pakistan and India is, indeed, abating, making even less necessary a sort of fueling of the arms race.

Now, we have talked to the Indians and to the Pakistanis about our desire to see them engage more in discussions about the strategic relationship that they have; not just the political relationship, but issues like confidence-building measures about their nuclear program.

So the constraint is not the absence of material or the presence of material, and this agreement will not enhance or constrain their nuclear program. That was not the intention. The constraint, we believe, or the lack thereof would be the nature of the relationships in that region, on which we have now the kind of relationship with India and with Pakistan that we think we can make a positive contribution.

As to what we sought in the agreement. We did start talking with the Indians about putting more reactors under safeguards; they started talking about putting a lot fewer under safeguards. And we came to a position of 14 of 22; that is two-thirds. It closes down, for instance, Sirius, which has a particularly bad history. It also, as the Indians decommission some and bring on new civilian reactors, those will be under safeguards, and so those numbers will go up.

But the key to our negotiation was that we were insistent that these safeguards be permanent. And that was not something that the Indians wanted or sought. In fact, it was the last point of negotiation, and it was the point on which I said to our negotiators the night before if they are not permanent, we will have to walk away. Because we believed very strongly that these had to be permanent safeguards.

In terms of a kind of standard that states ought to be judged against, in some ways de facto, this is the beginnings of the establishment of those kinds of standards. What have the Indians agreed to do? They have agreed to adhere voluntarily to the nuclear supplier group guidelines. They have agreed to adhere to the missile control technology regime guidelines.

They have a proliferation record that is really quite good, very good, and the protection of those materials. They have a law, as of

2005, that criminalizes, in a comprehensive way, either individual or company behavior that aids and abets the trade in weapons of mass destruction.

They are agreeing to a civil nuclear program where the fuel supply will be from the international community, rather than generated at home. I think that is the beginning of a very good set of standards.

And just to note, Iran, for instance, were it willing to accept a civil nuclear program that did not require the fuel cycle on Iranian territory, they could have that deal. The problem is they haven't been willing to accept that.

And so I do think that and some other things that we would like to see the Indians do—for instance, on the proliferation security initiative, we are working with them. They have also told us that they would like to consider joining the Wassenaar Group—there are a number of pieces that are still to be done. But it is a pretty good list for behavior in order to have this kind of deal be acceptable.

Chairman HYDE. Mr. Mack of Florida.

[No response.]

Chairman HYDE. Is he here? Mr. Fortenberry.

Mr. FORTENBERRY. Thank you, Mr. Chairman. No comments at this time.

Chairman HYDE. Mr. Leach of Iowa.

Mr. LEACH. Thank you, Mr. Chairman. Madame Secretary, you have made a very thoughtful case. We have to decide as a Congress, because a change in law is required, whether it is a compelling one. And so I would like to ask several questions of a skeptical nature to try to ascertain how the Administration is thinking.

Prior to the President's trip we had good discussions with the Executive Branch and this Committee and Subcommittee about the possibility that a powerful step forward in the United States-Indian relations might relate to United States support for India being on the Security Council. Instead, the Executive chose an approach it frankly had not discussed with Congress in advance. And that is one of the reasons why there is a lot of hesitancy to jump as rapidly as the Executive might want.

What is your stand on the Security Council issue, for one?

Two, all of us recognize India is a democratic and responsible country. And if the world were fairly simple, this kind of exception might be almost de facto compelling.

But when the United States takes a position with regard to any international agreement that we have the exceptional right—and this is what is implied here—to go outside the agreement, without consultation in advance with anyone, by the way, it certainly implies that other countries might assert that they have the exceptional right to go outside the agreement.

And so you have a circumstance where, presumably, pressure will be put on China to make an exceptional case about Pakistan, conceivably, although doubtfully, with North Korea. Certainly pressure will be placed on Russia to make an exceptional case for Iran. Maybe even France would be under that kind of pressure.

You have a situation where there are other countries in the world that might be considered comparable to India—let us say,

Brazil—where all the nuclear weapons states might want to make further exceptions. So you really opened up a Pandora's Box in terms of pressure on others to act in similar ways, as well as psychological, maybe, desires to match United States exceptionalism. And so I would like your response.

And the third one, and the last one for the moment, is, there have been new developments in technology. One relates to a fuel called thorium. Did the Administration consider some sort of thorium option, helping India with a reactor approach that has never really been developed yet, but one which has the advantage of not spinning off plutonium as a byproduct? Was this ever part of anyone's consideration?

Thank you.

Secretary RICE. Thank you, Congressman Leach. On the Security Council, we, of course, as other Administrations, support Japan for permanent membership, or membership as a permanent member of the Security Council.

It has been our view that going beyond that at this point and trying to debate the politics of who gets onto the Security Council would indeed retard the broader reforms within the United Nations. And it happened last summer, frankly. Everybody got so spun up and active about who would be on the Security Council that we really didn't make the progress on some of the core reforms—Management Forum, Human Rights Council, Peace-Building Commission—that we thought necessary.

Obviously, we have been trying to talk with others about the kind of criteria that we would think of for a permanent seat, or for a Security Council seat at all. And responsible democracies that have acted well on behalf of international peace and security obviously meet that criteria. But we have been reluctant to commit to any other state, other than the long-time commitment to Japan, because we think within the context of the UN, Security Council reform will simply overtake broader reforms of the United Nations.

As to the exceptionalism that the U.S. is exercising by proposing this civil nuclear agreement, I think the way to think of it is yes, the United States is taking the lead in trying to address what is really an anomalous situation in the international system. And that is a state that is not a member to the NPT, but has really adhered to most of its guidelines, despite developing a nuclear weapons program, and to resolve that anomaly so that the nuclear non-proliferation regime can broaden beyond just the NPT, to begin to have states signed on to various norms of behavior.

And India signing on to those norms of behavior, many of which it has always observed, we think is a very big step forward. So we have taken the leadership in doing that.

But I will say that it has been welcomed by the IAEA Chief. It has been welcomed by a number of other members of the NSG. And what is more, it is still subject not only to legislative review or legislative amendment by the Congress, so that is the first check—the Congress has to agree on amendment to the legislation—secondly, the IAEA, of course, has to negotiate safeguards. And that would have to be approved by the IAEA Board of Governors. And third, the nuclear suppliers group has to agree to this arrangement.

And so while the United States has taken the lead, by no means is the United States able to unilaterally deliver this resolution of the anomalous situation.

I don't think that any of those steps would be successful if you were talking about a deal with North Korea, or Iran, or frankly even with Pakistan, where the proliferation behavior and histories are really quite different.

As to countries like Brazil or others that wish civil nuclear cooperation, and in the case of Brazil, has had a small enrichment and reprocessing program that has been there, civil nuclear cooperation ought to be open to any state that is prepared to live up to certain rules and certain safeguards.

The President made a proposal at the National Defense University that there be some kind of assured fuel supply for states that are prepared to forgo enrichment and reprocessing capability. That is something that has been offered to Iran. Mohamed ElBaradei himself, and we have been working with him, is talking about some kind of assured international fuel bank for states.

So I don't think, by any means, this is just a unilateral U.S. move. First of all, we need the assent of others. Secondly, we are working with others in the international community to make civil nuclear cooperation possible for states so that there is not such great proliferation risk.

And finally, on the reactors that produce no plutonium byproduct, both fast-breeders and even further advanced technologies, the President proposed a program for global nuclear energy cooperation. And this initiative we are talking about with a number of states.

But we have been very clear with the Indians that until we are more certain about the nature of what they intend to put under civilian safeguards in terms of their breeder reactors, we can't say much about their ability to cooperate in what we call GNEP, the President's Global Nuclear Initiative.

We would like nothing better than the safeguarding of future breeder reactors by India so that they could participate in this cooperation, this global nuclear cooperation. And we believe that that will be an incentive for India to put future breeders under civilian safeguards.

And absolutely, when we can get to reactors that do not produce a plutonium byproduct, we will have done a very good job of significantly changing the proliferation picture that is thereby byproduct.

Chairman HYDE. Mr. Ackerman of New York.

Mr. ACKERMAN. Thank you. Madame Secretary, I have been at least among the most vocal supporters of this proposal. I think it recognizes the new realities in the world, and takes a major step forward in dealing with them and making the world a safer place.

At the same time, I have been at least among the most vocal critics of the way this has been presented to the Congress, and the way it has made its debut to the American people, which I think has not been handled as expertly as so many other things get handled.

This was a very difficult sell in India to the Indian people. And the Prime Minister stepped up to the plate, and was able to nego-

tiate through those treacherous waters, and gain broad-based support.

It is my view that this is in trouble here, listening to people and listening to Members of Congress, who would generally be supportive of these kinds of things.

Will the President make this case to the American people? Is it that important to him, as it is to so many of us, to personally take ownership of this issue, to see if he can get the American people's support, and the support of Members of Congress?

Two: Who at the White House will have personal ownership of this issue, and be responsible for the mechanics of getting it through the Congress?

Three: It is my studied view that this legislation passing Congress will not be the same as was introduced, and there will be conditions that will be added. What conditions that could or would be under consideration do you think would be deal-breakers as far as the Indians go? And does that put you back to square one in renegotiating this after the Congress passes the legislation?

And lastly, I would like to come back to a question that Mr. Berman posed, which is very important. Why is this India-specific? It would be so much more logical to put this to a standards test, because India meets almost all of the standards of our control. It could say any nation that has been a democracy for 15 years, 25 years; any nation that is not a nuclear proliferator; any nation that is pluralistic in its society and approach, and all those good things that we have; and any nation that meets those standards. And there are not many in the category that is developing nuclear energy or nuclear weapons. Why not do it that way? It would be so much easier, and so much more palatable.

Secretary RICE. Thank you, Congressman. First of all, the President not only follows this closely, but works for it. He has had some Members of Congress down to talk about it. I think you will see more of his involvement as this goes on.

But of course he did speak to this when he was in India, both in the remarks that he made with Prime Minister Singh, and in his speech to the Indian people, and indeed to the American people. It is an extremely important initiative for him, one that he personally launched, and one that he is personally watching. And so I am sure you will hear more. But he couldn't be more dedicated to this.

Mr. ACKERMAN. But the question is will he address the American people on the issue.

Secretary RICE. If that is what it takes, absolutely. He has addressed the American people in his speech when he was in India, and in his remarks with Prime Minister Singh. But at any time, I am sure he is prepared to say more. He cares a lot about this initiative.

Secondly, we are working very closely with the White House. Of course, State has the lead, since this is a negotiated agreement. But I am in constant contact not just with Steve Hadley, the National Security Advisor, but we had just recently a principals meetings to review where we are, to review what people could do. The principals of the National Security Council, and that, of course, includes also the Energy Secretary was there. We are all working hard for this. But of course, the National Security Council and Leg-

islativ Affairs and the White House would be the points of contact there.

As to conditions. We are prepared to work with the Congress on concerns. This is, as Congressman Lantos said, a tightly-negotiated agreement. It is an agreement on a very sensitive subject, as you, Congressman Ackerman, have said, for Prime Minister Singh. It is putting aside many, many Indian concerns about its program about people's oversight of its programs that are now 30 years in the making. And of course, anything that would suggest that we are somehow turning this into an arms-control agreement would be particularly problematic.

But I would not want to try to comment on the spot about what might be or might not be acceptable. I think what we should do is work with the Congress. But we can't be in a position of having to renegotiate this agreement. I don't think we will be able to succeed.

Oh, I am sorry, you asked about the standards. As I outlined to Congressman Berman, there are, of course, a number of, if not explicit, implied standards in all of the things that we have encouraged India to accept that they have accepted, and that they were already doing.

Mr. ACKERMAN. No, no. The question that the Congressman and I both posited was, why is the bill written about India, rather than any nation who meets the following standards.

Secretary RICE. Well, I think we felt that we needed to be aware and cognizant of how path-breaking this is. We are dealing with an India which is really anomalous in the international system because it has a nuclear weapons program, a strategic program. And at the same time, we now are going to work with them on a civil nuclear cooperation agreement. And I think it really is, therefore, India-unique and India-specific.

But the point that I was trying to make is that we can draw from the things that India is doing, I think standards that could be used to suggest to states that if they wish to pursue civil nuclear cooperation, these are good things to do.

But a number of the other states that have been mentioned are, of course, party to the NPT, and therefore, standards are already available to them. This is really, in many ways, an anomalous situation.

Chairman HYDE. Mr. Burton of Indiana.

Mr. BURTON. You continue to impress me, Madame Secretary. Dynamite.

Secretary RICE. Thank you.

Mr. BURTON. First of all, let me say that I want to concur with my colleague, Mr. Wilson, who went on a trip with me to Indian Pakistan, before too long, Mr. Lantos and the Chairman. I think this agreement has a lot of merit, and I want to congratulate you and the Administration on working so hard to make sure it came to fruition.

I do have one concern, though. And that is, as a person who in the past has been a critic of India regarding Kashmir, and now one who supports very much this agreement, I still have concerns about Kashmir.

I wrote a letter to you, which was answered by Jeffrey Bergner, who is Assistant Secretary for Legislative Affairs. And he said,

“While we encourage both sides to proceed with their historic dialogue and look forward to more progress as the talks continue in the months ahead and years ahead, we do not see ourselves as mediators or taking a direct role.”

The problems in Kashmir have been going on for a long, long time, pretty much since the British left. And there have been an awful lot of horrible things that have happened. There have been human rights abuses, torture, and all kinds of things, which I have illuminated and talked about on the Floor.

I believe right now Prime Minister Singh and President Musharif want to talk, and have been talking about this. And the border has been opened to a degree, and there have been some progresses made in this area.

I believe since the United States is working with India to help them with their energy issues—and I might add here that I think it is very important we make sure that there is a clear delineation between civilian and military uses, and I know you have worked on that very hard in the agreement. But I think that we could be a very positive force in solving the problem of Kashmir if we use this opportunity right now to do that.

And I was kind of disappointed when I read that he said we do not see ourselves as mediators or taking a direct role. We are going to try to help India. And we want to do that, and I want to be a part of that. And I think most Members of Congress do, as well. But this issue of Kashmir must be resolved.

And I hope that maybe you and this Administration, if not openly, at least behind the scenes, could urge this situation to be resolved. It has always been a flash point. There have been wars started because of it in the past, and it is something that must be resolved. And I think this is a great opportunity at this time to do something about it.

So if you would care to comment about it, I would appreciate it.

Secretary RICE. Thank you very much, Congressman Burton. We have encouraged the parties to come to a resolution of the Kashmir crisis. You are right, it is a flash point. It is a place that has sparked conflict in the region. And were there a resolution of it, it would open up the region to, we think, greater prosperity, as well as greater peace. And we have made that very clear.

We are encouraged by what they have been doing, some very practical things that they have been doing in terms of bus links and the ability of people to move. We are encouraged by the discussions that they are having.

When we say we have not taken on the role of the mediator, that is historically America's position, because we believe that the parties themselves are best suited to try to find a resolution.

But I can assure you that we do actively encourage the parties to find a resolution. And in fact, the President had publicly said this when he was both in India and in Pakistan.

Mr. BURTON. Let me just add one more thing; I don't want to run out of time and go over my time limit.

But President Musharif, when I met with him, and when we met with him, he had a plan which he had presented to Prime Minister Singh during their talks. I thought it had a lot of merit. I don't know if the Administration has taken a hard look at that, and

there may have to be some negotiation on what was in that proposal.

But I really hope that the Administration and you will take a look at that. And if you have another opportunity to talk to both Prime Minister Singh and President Musharif, I wish you would talk to them about that proposed agreement, and see if something can't be worked out.

Secretary RICE. Thank you, Congressman.

Mr. BURTON. Thank you.

Chairman HYDE. Mr. Faleomavaega of American Samoa.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly would like to offer my personal welcome to you, Madame Secretary. It seems like you were only here yesterday.

I would like, Mr. Chairman, first to associate myself with the statement made by our distinguished senior Democratic Member of this side of the aisle, and absolutely support and subscribe to the position that he has taken in support of this proposed treaty, or this proposed agreement.

I, over the years, have always said that, having met recently with the Foreign Minister of India, he told me that you think you are having problems in trying to approve your agreement, we have the most difficult situation even in India. And I think I can understand his concern.

And the fact of the matter is whether it be through Democratic or Republican Administrations, our policy toward India has been either benign neglect, one of indifference, one of passiveness. So I think there is that little sense of leeriness even among the people and the leaders of India, are we serious in negotiating and taking this initiative.

This is a most profound foreign policy initiative taken by President Bush, and to you, Madame Secretary, to your credit, to show that not only to the largest democracy in the world, but as an example of some of the issues that we have taken that are so important.

Let us talk about the non-proliferation treaty. India stood alone when it first exploded its nuclear device in 1974. At that time, when Rajid Ghandi made an appeal before the General Assembly of the United Nations, if we are really serious about getting rid of nuclear weapons, why don't we start with the nuclear haves. Let us be serious about this. And guess what? Total silence. No response by the nuclear haves in saying are we really serious about getting rid of nuclear weapons. India was the only country that—and it still stands by that position.

So I think there is some hypocrisy here. I remember in 1995, President Chirac broke the international moratorium on nuclear testing by exploding six additional nuclear devices in the South Pacific, despite the world's opposition. Even our own country was opposed. Even 60 percent of the French people were opposed to this nuclear testing.

So the nuclear madness continues. And I think the point that India makes is very well taken. If we are really serious about getting rid of nuclear weapons, why is it that the five nuclear powers continue to have nuclear weapons, and then at the same time tell the rest of the world you cannot have it.

And I think this is the reason why we have countries like Pakistan, or North Korea, or Iran, to say hey, if they can have it, why can't we have it?

So I am trying to factor in this contradiction that I try to follow, Madame Secretary. I might note, also, I appreciate that Under Secretary Nick Burns will be joining the Members of the Congressional Task Force on U.S.-India Trade that will be meeting tomorrow afternoon. I think it will be an important facet to allow Members to meet with Under Secretary Burns so that we can really seriously discuss some of the provisions of the proposed treaty.

Madame Secretary, I know you just came back from Indonesia. My 20,000 constituents that are living in hell, literally, for the hardships that have been created in having to get a visa, by going 2,000 miles to New Zealand just to get a visa. And I think I wrote a letter to you on that; maybe hopefully somebody that you can designate so that we can get some answers and response to this.

And I know this subject matter is not related to what we are discussing this afternoon, Madame Secretary. I am very, very concerned about West Papua, New Guinea. But we will take that at another matter.

One question. What is to prevent India from negotiating a civil nuclear agreement with other countries if our nation fails in this initiative?

Secretary RICE. Well, the real hindrance for India is that in order to safeguard its reactors, it has to do so through the IAEA, which means it has to have the agreement of the nuclear suppliers group, of which others are the nuclear suppliers.

I think that the benefit that we do get—and I appreciate the spirit of the question—the benefit that we do get in having led on this for India is that it is very clear that we believe, as Congressman Lantos has said, that there is a new strategic relationship here. And it is only appropriate that the world's largest and world's oldest democracies, that it would be the United States that would lead us to come together.

And so the real advantage here to us is that while others might also not ultimately be able to engage in civil nuclear cooperation because of the constraints that have to be removed in the international system, it is a very good thing that it is the United States that is leading on this issue. I think it says to the Indians we don't just take you seriously; we really do believe that the potential for an India that is a strategic partner is a real boon for peace and security, and democracy around the world.

Mr. FALEOMAVAEGA. Thank you, Madame Secretary.

Secretary RICE. Thank you.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

Chairman HYDE. Ms. Ros-Lehtinen of Florida.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman. Welcome, Madame Secretary, as always.

I support the global partnership announced by President Bush and Prime Minister Singh last summer. I believe that this new initiative aimed at improving relations and enhancing the relationships between our two nations will be mutually beneficial across a number of areas. I look forward to working together with our allies

in India to promote democracy, to fight AIDS, to combat terrorism, to deepen our economic ties.

However, as Chairman Hyde said, our primary area of concern relates to this proposal for civilian nuclear cooperation and nuclear trade between our two nations. I have a number of questions that, if time runs out, I would like to submit them for the record, Mr. Chairman.

In addition to the geostrategic reasons that are raised in favor of the nuclear proposal, we have heard proponents say that this issue will help India diversify its energy resources. That said, if India will meet future energy demands with nuclear power, why is it pursuing negotiations with Iran for a proposed natural gas pipeline?

Secondly, given Iran's status as a pariah state, why invest there instead of investing in other oil-rich countries that are not state terrorist sponsors or proliferators?

Also, will India be phasing out or diminishing its reliance on gas and oil once United States nuclear exports and assistance starts flowing into India? We have raised conditions regarding India's growing relationship with Iran. Even a strong promoter of the program, like Congressman Lantos, of this new deal pointed out in his opening statement that just last week there were reports of Iranian Navy personnel training in warship maneuvers in India.

Certainly Prime Minister Singh is a friend, a true ally. However, what happens if there is a change in the government or policy? What mechanisms or safeguards are we requiring as part of the agreement to ensure that regardless of the leadership in India, this agreement does not inadvertently facilitate secondary proliferation?

In principle I support the civilian nuclear cooperation agreement with India. It is to our benefit. But Iran is the most troubling aspect of this deal. I think most, if not all, of us want to find a way to make this agreement work, and to make it happen. But we need certain criteria or commitments built into the agreement in order to reach the necessary comfort level to vote for the proposal.

Thank you, Madame Secretary.

Secretary RICE. Thank you very much, Congresswoman Ros-Lehtinen.

I would like to start by noting that we have been very clear with the Indians when we have had concerns about any of their policies, most especially their policies toward Iran.

I would note that they are not the only country in the world, of course, that has relations with Iran. Italy is Iran's largest trading partner. Japan is a very large trading partner of Iran.

The truth of the matter is that we are the ones that have no relationship with Iran. Most of the world does have relations with Iran.

As Iran's behavior has become clearer and clearer, especially under the more transparent regime of Ahmadinejad, I think you see a lot of countries assessing and reassessing their relationship with Iran. And I would expect that that will continue.

To be fair, the Indians have a long relationship with Iran. They will tell you that it goes back thousands of years. But we have not been shy in talking to them, as we have talked to others. And

again, I do not want to single out India here, because there are a lot of countries in the world that have relations with Iran.

I can't tell you that they will, in fact, phase out the kind of oil and gas dependency on states like Iran. But they certainly will have no chance to diversify away from that kind of dependency if we don't offer alternatives, which is why civil nuclear is so important, which is why it is important to think about renewables. It does give people other options.

I know that what we are saying to people is we are watching oil and gas be used as a weapon, a diplomatic weapon, around the world by a number of states with very dangerous foreign policies. And we would like to see fewer states dependent on those irresponsible states in the international system that are using oil and gas as a weapon.

Iran would clearly be in that category where it threatens from time to time, that it will use the oil or gas weapon if we are not prepared to accept their notion of what a civil nuclear program ought to be.

So it is important that we give people other alternatives, recognizing that other states do have relations with Iran.

Now, as to the two specific issues of the military, the story that was in Defense News. We asked the Indian Government about this. They tell us that this was a port call. They have done port calls from time to time. That these were cadets. That there was no military training involved in this. And we accept that explanation.

I think that we could note that probably one of the constraints on Indian relations with Iran is India happens to have a very close relationship with Israel, which they have noted their concern about the kinds of statements that are coming out of Iran.

And in the final analysis, when all is said and done, when it came down to that first vote back in September to refer the Iranian nuclear program to the Security Council, a vote that, by the way, other members of the non-aligned movement were not willing to take, India was there. They were there again in February, when it was a somewhat more comfortable vote, because there were others like the Russians who voted.

But back when the Russians abstained and others abstained, India voted with us. I think it shows a growing understanding of India's role as a responsible power in dealing with the threats that a state like Iran brings on the nuclear front.

Ms. ROS-LEHTINEN. I agree. Thank you so much, Madame Secretary.

Secretary RICE. Thank you.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman.

Chairman HYDE. You bet. Mr. Engel of New York.

Mr. ENGEL. Thank you very much, Mr. Chairman. And Madame Secretary, welcome. I wish to associate myself with the remarks of Mr. Lantos. And I wish to congratulate you.

I support the agreement. I think that there will be things that will need to be worked out. But I want to announce that I am going to add myself as a co-sponsor of H.R. 4974. Because while I think that there will be things we have to work out, overall I believe the policy as you articulated it is a wise policy.

For years the United States-India relationship was cool, at best. We found ourselves on opposite sides during the Cold War, many international questions. That is no longer valid. I think that the alliance between India and the United States is an important relationship. We share, as so many of my colleagues have said, so many things in combating terrorism. We share the same geopolitical concerns of that region. It is the largest democracy, and the oldest democracy—they are, and we are. And economics is very, very important.

Some say we should be neutral and have the same position toward all countries, such as North Korea and Iran, regardless of whether they are allies or potential allies or not. And to that I say nonsense. It is in our best interest to have a relationship, a good relationship, with India. It has a huge middle class. It has a market-based economy. And again, we share democratic values, seek an end to terrorism, and a better relationship with Pakistan.

And so I believe that we need to expand all our ties with India, not just diplomatically, but in all other sectors, as well. And I want to personally thank you for your hard work in promoting this idea.

As you mentioned, in recent days we have worked with India in an unprecedented way in the IAEA and in other matters.

So India has a huge and growing appetite for energy, as you mentioned. And I believe that this agreement will help diversify the Indian energy sector, as we ourselves are trying to wean ourselves off of Middle Eastern oil.

I want to articulate the same concerns that my good friend, Ileana Ros-Lehtinen, did, regarding Iran. And I know that you are pursuing that course. But I just want to add my voice to it.

I believe that we have to continue to tell India that we are concerned about any relationships they have with Iran. And I would hope that the Administration, by the way, would also, in conjunction with this, support some of the legislation that Congresswoman Ros-Lehtinen and others are developing vis-a-vis Iran.

I know that when we did the Syria Accountability Act, there was initially some hesitation on the part of the Administration to support it. And I think now you would agree, we have discussed this, that it is a good tool to use. I think that some of our legislation vis-a-vis Iran would also be a good tool to use.

So I just wanted to say that. And I have just one question, and anything else you might want to comment on.

In the legislation, Congress is asked to forgo our right, under the Atomic Energy Act, to approve future bilateral framework agreements. And under the Administration's proposal, the United States-India agreement would go into effect automatically unless Congress can pass a resolution of disapproval.

Why do we do it that way, and not the other way? Why can we not approve it by a simple majority? It would seem to me that that is the way the statute reads, and it would be better to do it that way? I am just wondering what the thought was in flipping it.

Secretary RICE. Well, thank you. And thank you for your support of the agreement.

We consulted quite a bit about how to sequence what is a fairly long sequence of events that have to take place in order to bring

this agreement into being. Some domestic with the Congress, and then some international, of course.

We thought that given the kind of path-breaking nature of this agreement, that the up-front consideration for the Congress had to be, are we prepared to engage in a civil nuclear cooperation agreement with India or not. And we therefore asked for an amendment to the Atomic Energy Act.

The bilateral nuclear cooperation agreement that is being negotiated, we are going to keep Congress fully informed as those negotiations go forward. And of course, that agreement then will have to be submitted to Congress. But as you said, for assent, rather than for an affirmative vote.

But what we are really doing is once you have decided that in fact we do believe civil nuclear cooperation should go forward, and therefore amend the AEA, the path that would be taken then for Congressional involvement is the same path that would be taken with any bilateral agreement for nuclear cooperation with any state.

So the up-front decision is, are we now going to make India eligible for nuclear cooperation. At that point, the process becomes the same that you would use to review and assent to any nuclear cooperation agreement. So that is how we think of the sequencing.

I want to be very clear that we know that there are a lot of steps still remaining. We intend to be fully in consultation and coordination with the Congress as we move through those steps.

We also have a number of international hurdles. The IAEA Safeguards Agreement has to be negotiated. We have to go to the NSG. So we will keep you not just fully informed, but we will be up to discuss how this is progressing as it moves along.

Mr. ENGEL. Thank you. I look forward to working with you, and enhancing the United States-India relationship. I think it is one of the most important relationships that we have, and I think we are in the right direction.

Thank you.

Secretary RICE. Thank you very much.

Chairman HYDE. Mr. Paul of Texas.

Mr. PAUL. Thank you, Mr. Chairman. Welcome, Madame Secretary.

I thought Mr. Berman and Mr. Ackerman had some very important questions to ask when they were referring to why is not this policy broader, rather than dealing with just India. And you have answered that question quite adequately. And Mr. Leach, as well, brought that subject up about how exceptionalism could spread and become a negative.

And I would think that possibly if there was a third-party completely independent, objective source, they would be confused by this, and not quite understand why one country would be treated quite differently than another.

And it has been explained that essentially we have to accept India as a de facto member of the nuclear club, and therefore they are going to be treated differently.

But my first question is, the policy that we follow, why wouldn't this be a tremendous incentive to a non-nuclear power to become,

you know, a de facto member, and get these same courtesies as well?

And the second question would be, would this policy not also lead to a great weakening of the non-proliferation treaty? If we can ignore it at certain times, it seems like we have less respect for the rule of law, and we sort of take a more arrogant attitude, which we get accused of once in a while, and this could be used against us negatively.

I don't need you to answer the question again about India. But there is another type of exceptionalism that I want to address. And that is the sort of a negative exceptionalism. And I know the sentiment of the Congress and the Administration with dealing with Iran. But in many ways, I don't see that as being very objective, either. Because they haven't been found in violation of anything. Yet we hear statements that for 20 years they have violated all these rules dealing with the NP Treaty, and they have never been charged. There have never been any sanctions, no violations. And yet it is repeated over and over again.

And I am worrying about the credibility of our country and our policy. Because a lot of things were said before we went into Iraq that turned out not to be true, and now we have a lot less credibility when we say things. And credibility is crucial, I think, in diplomacy. If we don't have credibility, what do we have?

But when this item was referred to the Security Council, the Security Council sent it back to the IAEA with this statement:

“The Security Council reaffirms its commitment to the Treaty of the Non-Proliferation of Nuclear Weapons, and recalls the right of state parties in conformity with Article I and II of that treaty to develop, research, production, and use of nuclear energy for peaceful purposes, without discrimination.”

So they are saying take it back. They had a right to develop nuclear power, and all of a sudden our position is that they have no right.

So in one way we circumvent the NP Treaty dealing with India, and then we ignore protecting the rights of the members that have not yet been accused—they have been accused, but they have not been shown to be in direct violation.

And even the director, the director of the IAEA, ElBaradei, said, when they were talking about sanctions, he said sanctions are a bad idea; we are not facing an eminent threat. We need to lower the pitch.

It seems to me that we need some type of a balance here, so that we don't further lose credibility.

And do you think there is any threat whatsoever in us losing credibility by slipping into the same trap that we did with Iraq, making accusations and charges that just flat out didn't turn out to be true?

Secretary RICE. Well, thank you, Congressman. Let me just say on the incentive for countries to get nuclear weapons, it took India 30 years, more than 30 years, to come to this point at which it may be able to reenter the international system in a way consistent with what has been actually 30 years of good behavior. I don't think that is an incentive for people to build nuclear weapons. I

think in this case you have, as I said, certain regional dynamics that led to that outcome.

As to the Iranian case, let me just go through the circumstances here. In fact, there is a finding of non-compliance before the Security Council. That finding comes from a September resolution of the IAEA Board of Governors that, by the way, India voted for. It comes from a second resolution of the Board of Governors in February of this year that actually referred the case to the Security Council.

And the reason it was referred to the Security Council was that the IAEA felt that it could not get satisfactory answers from Iran on what has been 18 years of a concealed program that was not reported to the IAEA.

So in fact there is a very bad history now here between Iran and the international community on its nuclear program. That is the reason that we are in the Security Council discussing it in the way that we are.

The finding of non-compliance does not assume anything about what the IAEA will ultimately find. But it does, through the Security Council's muscle, in a sense, say to the IAEA, you have now the backing of the international community to press Iran on these cases, because we are very uncomfortable with what the Iranians have been doing. We are very uncomfortable with the lack of answers. We are uncomfortable with the fact that the Natans facility and the enrichment facility had to be discovered on a tip from sources, not on the reporting of the activities of that facility to the IAEA.

So there is a cloud over the Iranians. And that needs to be understood.

It is also the case that 27 countries voted for that resolution in September. We are not talking about the United States throwing charges around; we are talking about a considered opinion of the IAEA Board of Governors. And by the way, one of the states that voted for that was Russia, not to mention France and Germany and most of the Europeans on that committee.

So I think it would not be correct to say that somehow these are charges that the United States is making. These are charges that the international community is making.

And in all fairness to what happened with Iraq, it was a series of resolutions in the UN Security Council that accused Saddam Hussein of not answering about his weapons of mass destruction, as well.

Now, Iraq and Iran are very different. We believe that we have a lot of muscle left in the diplomatic route. But we have to use that diplomatic route, and use it energetically, in order to convince Iran that it needs to give up on its ambitions for a civil nuclear program with a fuel cycle, complete fuel cycle, on Iranian territory.

Congressman, nobody is telling Iran that it can't have a civil nuclear program. That was once America's position, but that isn't the United States position. We are backing European diplomacy that would explicitly grant Iran technology for a civil nuclear program. We are backing a Russian proposal that would explicitly grant Iran civil nuclear energy.

The problem is the Iranians want to be able to enrich and reprocess on their own territory. And given their history, with having not reported their activities, there needs to be an acknowledgement that the world is not prepared to let Iran have that technology on their own territory.

But I want to be very clear. No one is questioning whether Iran can have a civil nuclear program. That is simply not right. And the Iranian people need to know that if that is what their government is saying, then they are not being told the truth. They have been offered by Europe, by the Russians, with American backing, avenues for a civil nuclear program.

Chairman HYDE. Mr. Meeks of New York.

Mr. MEEKS. Thank you, Mr. Chairman.

Madame Secretary, I want to associate myself with some of the remarks by Mr. Ackerman, Mr. Berman, et cetera. I do think that this agreement is tremendously important for the oldest and largest democracies in the world, and I think that it enhances, in this globalized world that we are living in, that kind of relationship in moving toward the future.

Let me say some of the questions, well, one question I have just really deals with some of the process that we have to do. Because to try to make sure that once we have a bill that has passed, et cetera, and some of the things that are concerning some Members of Congress, is that we have been told that Congress must approve the Administration's proposed changes without waiting to actually see the completed agreement for cooperation, which may take a year or so in negotiation.

And at the same time, we have got to do something immediately so that we can show India that we are serious about changing the law.

So my first question is, number one, how long do you expect it will take to negotiate the new agreement? And whether or not you agree—and I am talking about from submission of the draft to the agreement being submitted to Congress—whether or not you agree with the statement that I believe Mr. Burns made a couple of weeks ago that it can be done quickly. And if so, then why can't we then see the agreement first, before changing the law?

My next question has a different area, because I am very interested in trade. And I also understand that if the United States-India agreement for nuclear cooperation is not in force by the time the NSG decides to grant an exemption for India, that United States nuclear fuel and reactor firms would not be able to trade with India, while the French, the Russians, and other countries' firms could get a significant head start on our American companies.

So I was wondering would the USG representative to the NSG join in a consensus, in a decision that would disadvantage U.S. firms? And I would hope not. Or will they ask for a delay in the decision by NSG, or delay in implementing the decision until the United States-India peaceful nuke agreement comes into law.

And finally, whether or not there is some kind of technology-sharing agreement within this. For example, I am told that India has some great new technology on how to dispose of nuclear waste. You know, we have had some tremendous debate going on in this

country in regards to nuclear waste. And if, in fact, they have that technology, whether or not part of this agreement, we can share that information, so that maybe we can also, in this globalized world, be able to help one another by eliminating a problem that we both have.

Secretary RICE. Thank you very much, Congressman. Let me just take the last point, because we talk a lot about what we can transfer to India in terms of nuclear technology. But you are right, there are also some things that we would like to talk to the Indians about. And the waste storage issue is one of them. And since these would be now safeguarded waste storage facilities, then I think that would open up cooperation in that area. Thank you for making that point.

Secondly, in terms of the NSG, it is our assessment that if, in fact, we do get our legislation done, and then move to the cooperation agreement, I am not quite certain what Under Secretary Burns meant by quickly. Let me just say that we will get it done as quickly as possible. And he is following it very closely.

I do know that we have given the Indians a draft. We expect some comments back on it. Obviously, we are going to keep you fully informed anyway. So if that agreement were completed before this bill had to pass, you would be able to know that. But I think we anticipate that there is still quite a bit of work to do because we are in uncharted territory here in putting together this agreement, given the circumstances.

We believe that the sequencing works best to not have the legislation dependent on the completion of the bilateral agreement prior to the passage of the legislation. But of course, the legislation could not go into effect until there was both a bilateral agreement and an IAEA safeguards agreement. The President would have to determine that both of those had been completed before the legislation would go into effect.

And we believe, by the way, that the NSG then is probably at the end of that trail, not at the beginning. So probably the questions you have asked would not arise. But obviously, while we have to, in the NSG, we should vote the merits of the case, one of the concerns that we have is we want American companies to be able to access these markets.

The Indians are talking about eight new commercial reactors over the next several years. That is a considerable buy, and we think American technology is going to be very competitive in that regard. And so we want to do everything we can to make sure we are positioned to take advantage of that market.

Chairman HYDE. Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman. And I would like to applaud Chairman Hyde and ranking Member Lantos for their taking seriously this oversight responsibility that we have, especially in dealing with new policies and policy shifts like we are seeing here in terms of India. And of course I associate myself with the remarks of Mr. Lantos, which I thought were substantive, and something I totally agree with.

And I would like to express my appreciation to you, before I ask any questions, that you have done a terrific job. You have been working beyond the call of duty. We see you everywhere around the

world, in the trouble spots, and working for the United States of America, and I want to thank you. And I would hope that once you are done with this job as Secretary of State, that you might consider running for a higher-level elected office. But we will leave that aside. [Laughter.]

One note—and this isn't a question, to which you don't have to comment. But just again, the solution to the Kashmir problem is not a problem between Pakistan and India. It is a problem about the Kashmir people having their right of self-determination, and a right of them having a referendum and determine their self-determination. And without that, agreements between the elites aren't going to necessarily change what is going on on the ground.

Now, your Administration, or our Administration—the Administration, whichever way we want to describe it—I believe is acting again, as we see today, systematically in order to accomplish very historic and strategic goals. And the effort this Administration has demonstrated in its appreciation of the global power flow, both economic, political and economic power flow, as well as the courageousness and steadfastness of this Administration in going after these goals, I think is quite admirable.

And nothing is perhaps more demonstrable of that than your new India initiative, which I applaud wholeheartedly, as well as I applaud your efforts and our efforts in Iraq. Because that, too, is part of a long-term strategy to affect the balance of power and the flow of power in the world in a positive way.

And with Iraq, we hope to have a democratic society that will serve as an example that Muslims and Arabs can be part of this democratic evolution that is going on in the world. And with India, of course, drawing them into a better relationship with us is going to have an important part of building a world in which we will then play an important part.

Here is one admonition. General Atomics. I mentioned this to you before, and you have already mentioned, touched on it twice already in your testimony.

General Atomics of San Diego has designed and built what they call a high-temperature helium reactor. It is a nuclear reactor that eats plutonium. And my Subcommittee, with permission of Chairman Hyde, will be holding a hearing on this reactor, as well as other technological developments that will help us achieve our non-proliferation goals. So I would draw your attention to that. It would be the perfect device for us. There is one working in Japan now, and one working somewhere else. It would be the ultimate nuclear reactor to go with India and other countries, because it does not leave this plutonium and nuclear material around that can be made into bombs.

But when we are looking at trying to give India an energy alternative, because of their great energy needs which you described, shouldn't we also be looking at the pipeline project that was so long delayed during the Afghan War? Shouldn't we be trying to build that pipeline between Turkmenistan? That is clean energy as well, natural gas, going through Afghanistan, which would give Afghanistan a huge source of revenue, into Pakistan and India? Isn't this something that we should have a little higher priority on?

Secretary RICE. Thank you, Congressman Rohrabacher. When I was recently in Afghanistan, they were talking about the fact that they are now reestablishing or beginning the discussions again of trying to build the pipeline, the gas pipeline down from Turkmenistan. India had not been a part of that, but India has agreed to at least discuss this.

It speaks to a larger issue, which is a part of the kind of broader strategic context here, which is that that entire region, which is India, Pakistan, Afghanistan, South Central Asia, and then Central Asia, going really all the way up to Kazakhstan, I think has a pretty bright future as an area of regional development.

And most of us really believe that Afghanistan, in which we have now given a lot of human treasure, as well as put a great effort there economically, has to find a sustainable economic posture. It right now doesn't really have a sustainable economy. We have got to fight the poppy trade by having a sustainable economy. We have got to get them off of foreign assistance ultimately by a sustainable economy. We have got to get an infrastructure that can sustain that economy.

Afghanistan is going to be a lot better off in the regional context that we are talking about. And so one of the things that we have talked about when we have been in an India, or we have been there, is the regional context here, in which Afghanistan is a part. So thank you for making that point.

Mr. ROHRABACHER. And with that pipeline, that would play right into that strategy.

Secretary RICE. That would be important—yes. And they are talking about it, those countries that you have named are talking about it.

Mr. ROHRABACHER. I think it deserves the priority. Thank you very much.

Secretary RICE. Thank you.

Chairman HYDE. Mr. Crowley of New York.

Mr. CROWLEY. I thank the Chairman for the recognition. And thank you, Mr. Lantos, for your support and my recognition.

Madame Secretary, welcome again before the Committee. I took a note, Mr. Rohrabacher's observation of your many talents and your future. I would also point out that tradition has it that whoever the next President might be, and we hope it is a Democrat, that he or she will reach out to the other side of the aisle and find an adequate place for you in their Cabinet. [Laughter.]

Mr. ROHRABACHER. I think we have a bidding war going on here.

Mr. CROWLEY. Madame Secretary, I noted with interest Mr. Barrett of South Carolina's question to you in regards to the negotiations that are taking place between the United States and Indian negotiators on this particular treaty. And again, I didn't get the exact question, but I think it made reference to what questions do the United States have for the Indian Government in regards to its nuclear weapons strategy. Is that correct? Is that how you recollect that question?

Secretary RICE. The question was, yes, have we discussed with them their nuclear weapons strategy. And I made the point that we consider this in a regional context, and we have talked with

both parties about the need to have a stable political and military situation in that region.

Mr. CROWLEY. Does China have a nuclear weapons strategy?

Secretary RICE. They certainly do.

Mr. CROWLEY. Does Russia?

Secretary RICE. Absolutely.

Mr. CROWLEY. France?

Secretary RICE. Yes.

Mr. CROWLEY. Great Britain?

Secretary RICE. Yes.

Mr. CROWLEY. United States?

Secretary RICE. Yes.

Mr. CROWLEY. Did the Indians ask you what our nuclear weapons strategy was?

Secretary RICE. Not to my recollection.

Mr. CROWLEY. Thank you, Madame Secretary. I support, in theory, the agreement. I was in India a week before the President's trip, and had a number of discussions myself in regards to it.

I think it makes a great deal of sense, although I do support the NPT, the Non-Proliferation Treaty. And I also support the NPT, the Non-Proliferation Tent. And I think T should stand for Tent here. We need to find a way to bring India in the fold and into this tent. It has never been a proliferator, never will be a proliferator. It is not in their culture to proliferate, unlike their neighbor, Pakistan, which was involved in proliferation. Although they, themselves, are also not signators to the NPT.

I think it needs to be pointed out, I think you have done this in an adequate way, both North Korea, as well as Iran, did sign on to it, although North Korea withdrew its support or its signature from that treaty.

Secretary RICE. Yes.

Mr. CROWLEY. The NPT, in and of itself, has not prevented countries that want to develop nuclear weapons from doing that, unfortunately. And I think that India is an anomaly; I think it is an exception, in that it has never proliferated, once again, will not. And you have gone through a great deal of that.

Can you speak, Madame Secretary, about this agreement, and what it means in a larger sense, of the relationship between the United States and India as we move forward?

Secretary RICE. Yes. Thank you, Congressman. In many ways, the agreement with India on civil nuclear cooperation has both a practical and a symbolic effect.

On the practical side, it opens up the world of energy cooperation. On the nuclear side, of technology cooperation in an area that I think is going to be increasingly important to everybody's rising demand for energy. It, of course, will undergird some important economic cooperation, because I am sure that we are going to be competitive in those markets.

Scientific cooperation and technological cooperation that is not currently available to us, and environmental cooperation. Because we need to remember that one of the concerns about the heavy dependence on hydrocarbons is that we are all concerned about what is happening to the environment. And greenhouse gas emissions, where India's rate of growth of greenhouse gas emissions has been

something like 3 percent per year, which is twice that of the United States. So we have a lot of reasons on the practical side.

But it is also symbolically something that you said. You talked about the non-proliferation tent. But there is also a larger tent, of course, which is the tent of responsible democracies that wish to be anchors of stability, and the promotion of democracy and peace in the world. And we need more partners in that. We need to unite the great democracies in the cause of promoting peace and stability.

India has been a responsible partner on the nuclear side. We are seeing the emergence of India as a more responsible partner in other areas, as well, both as unlocking whole areas of cooperation that would otherwise be unavailable to us, but also a way of welcoming India in a sense out of the cold, in part because of this nuclear history, and into a strategic relationship with the United States as the world's largest democracy, and soon to be the world's most populous nation. We think this is an extremely important step forward.

Mr. CROWLEY. Thank you. Thank you, Mr. Chairman, for the time.

Chairman HYDE. Mr. McCaul of Texas.

Mr. MCCAUL. Thank you, Mr. Chairman. And thank you, Madame Secretary.

In response, I want to say that I hope the next President is a Republican with a lot of foreign policy experience, and you would be a great candidate.

This is an important agreement. I think you have done an outstanding job in this area.

But I want to shift gears. When you are one of the last ones to ask a question, the topic has been fairly exhausted. And I want to focus on proliferation in general.

I was on the Homeland Security delegation, met with the IAEA, with Mohamed ElBaradei the day the letter came in from Iran stating that they were going to break the UN seals and start their uranium enrichment program. Needless to say, it was a very startling revelation. And I believe he was visibly shaken over this.

Iran has a track record with Hezbollah in terms of our Embassy, our Marines in Beirut, the Kobar Towers. Hezbollah is an extension of their terrorist organization. Iran has an alliance in our own hemisphere with Venezuela, and with Fidel Castro. All these cause me grave concern when it brings it into our own hemisphere.

I participated in a United States-Mexico inter-parliamentary. And we talked about these issues, and the greater need for Mexico, and the Mexican Congress actually passed a resolution stating that they recognize the need to cooperate more with the United States in protecting our borders.

I bring this issue up because I have 15 sheriffs from my home state who are actually not too hard to spot: They are the ones with the big cowboy hats in the back. But they are very concerned with what is happening down there.

GAO had a report recently where they were able to smuggle radioactive material across our United States-Mexico border. We know the cartels have taken over south of the border, and they have delivery routes, whether that is human trafficking, whether

that is drugs, or whether that, God forbid, be a weapon of mass destruction.

We do have evidence that al-Qaeda would like to exploit our borders. All these lead, to me, to have great concern about the current state. And while this may be better directed to Secretary Chertoff, I do believe this is an international issue as it relates to our international border.

And I wanted to get a sense from you, with the President just having met down in Mexico with President Vicente Fox, what is the state of our relationship with Mexico? And particularly with respect to their cooperation to better fortify this border, and better get a handle over the cartels, which in my view are running that region of the country?

Secretary RICE. Yes. Well, thank you. This is an issue that is of great concern to the President. It is of great concern to those of us in the Administration. Secretary Chertoff and I have worked together with our Mexican counterparts. As a matter of fact, just a few weeks ago, a couple of weeks ago, we had what we call a binational commission with Mexico, where we talk about a whole range of issues.

But the border issues are ones that we spend probably the greatest amount of time on. And there are a number of very detailed, technical working groups about how to make the border safer, more secure, and still able to move goods and services between Mexico and the United States.

The State Department has, in its current budget request, a considerable increase in money for border security. We take it very, very seriously.

Now, I think Mike Chertoff, who spends a good deal of time with his counterpart, would tell you that we have better cooperation with the Mexican Government than we have ever had. There is still work to do, in terms of law enforcement cooperation, intelligence sharing, all of the things that make it work.

And let me just underscore something that you said. Whether we are talking about trafficking in persons, or trafficking in arms, or heaven forbid, trafficking in dangerous materials, a lot of the sources are the same, whether it is corruption, or lacks border controls. And so we take this very seriously, he takes it very seriously; we work on it all the time.

For my part, I have also worked with my counterpart on how we talk about the border issue. Which is that we have a joint responsibility to make certain that our borders are secure, and that the Mexican Government understands its part of that joint responsibility.

And so whether it is with Mexico or with Canada, the post-9/11 environment has been very different in terms of our work together on border security. And I can assure you, it is a very high priority for all of us.

Mr. MCCAUL. If I could just conclude by saying I know there are certain members of the Mexican Congress that really want to work with us on this issue, and obvious the State Department can play a great role in that.

Secretary RICE. Yes, absolutely. Thank you.

Mr. MCCAUL. Thank you.

Chairman HYDE. Mr. Blumenauer of Oregon.

Mr. BLUMENAUER. Thank you, Mr. Chairman. Thank you, Madame Secretary.

I appreciated your comment about the working policy that the rush for hydrocarbons has on foreign policy. I found that refreshingly candid, and I hope that informs what we as a Congress do with energy policy in the future.

I would just make one observation, that just because India and Pakistan have developed nuclear weapons does not necessarily mean that our policy is a failure. Because there are a whole host of potential consequences that could have derived from our failure to be aggressive and forthright in this matter. And I think that the American policy has had many positive effects for a whole sequence of countries that may fall into play.

I have three brief questions for your reaction now, or in some case if you want to follow up in writing to the Committee.

First, and most fundamental for me, is the impact that this policy initiative has on our policies, vis-a-vis Iran, and how others will perceive it. And this has been referenced by some of my colleagues earlier. Because it seems to me to potentially complicate—not potentially, it does complicate—our moral and political leverage with the Russians, with the Chinese, with European Union country members, as we are interested in ratcheting up power in the future as it relates to Iran.

Second, I am interested in finding out if the approach that the Administration has dealing with the transfer of sensitive nuclear technology, and some pretty dramatic adjustment of our policy, for reasons that you outlined, that are significant. Does this signify that there may be a broadening of the thought within the Administration on our policies regarding dual-use technology and export controls?

We have sort of been frozen in time on these. I know that it has given heartburn to some of your colleagues in the Department of Commerce. I know that there have been efforts that really haven't gone very far in Congress of late. I know it is a concern of our Chair. And I am very interested if this signifies some flexibility, some new thinking that might relate to how we are dealing with American companies in a very difficult area.

My third and final question just deals with the nuclear suppliers group. Is India going to be regarded by our colleagues in that as an exception, and will be the only exception? Do we have the leverage? Or at least are we going to have an understanding that any future exceptions will have to be by consensus of that nuclear suppliers group?

I understand the French and the British are somewhat sensitive to this approach. But I am interested in what we think is going to happen with the nuclear suppliers group in the future.

Secretary RICE. Thank you very much, Congressman. First of all, let me just agree with you that there have been very positive effects of the NPT, and I don't mean to suggest that there have not. It has had, and I think continues to have, a very important role in our non-proliferation regime.

I said earlier today it is the cornerstone really of the non-proliferation regime. The point was that it has not stopped the Indian or Pakistani programs.

On the policy toward Iran. I have heard it said that it is a double standard—one standard for India, one standard for Iran. I think the double standard was set by Iran and North Korea, not by us.

Mr. BLUMENAUER. If I may.

Secretary RICE. Yes.

Mr. BLUMENAUER. I understand your point about the difference between the two. My question was about our leverage with others who may not care as much about the dual standard.

Secretary RICE. Yes, I understand that. And that is exactly my point, though. When others say well, you have a double standard, my answer to them would be yes, if there is a country that is breaking its agreements with the IAEA, flaunting its obligations under the NPT, not to mention promoting and financing terrorism around the world, I think that there is a second look. As opposed to a state that has been responsible, with in fact obligations that it really didn't even undertake by not signing the non-proliferation treaty.

So I think we should not let others have that argument. And I am prepared to go have that argument with people. If they want to argue that we ought to treat Iran and North Korea like India, I am prepared to go and have that argument. And frankly, it is very interesting. I just came out of an extended P-5-plus-one, meaning the permanent five plus Germany, meeting in Berlin, and this issue didn't even come up. People did not argue that the India agreement somehow makes it harder to have a policy toward Iran.

I think the difficulties of getting a coherent and concerted policy on Iran stand on their own. I do not think that this complicates it in any way. I think if anything, we have to keep reminding the Iranians and even our partners that Iran has a way to civil nuclear power. It just doesn't have a desire to accept the just demands of the international community that that route to civil nuclear power not give them the fuel cycle which might lead to the development of a nuclear weapon. So I think that the argument is actually not that hard to sustain.

In terms of the export controls, that is a problem that stands on its own. And you are right, there have been lots of discussions and debates about how to make our export controls both effective and efficient, if I can use that term.

This particular agreement does not speak to the export control question. I think that is taken on its own merits.

Finally, as to the NSG, this agreement would also have to be accepted, we would expect it to be accepted by consensus. That means that any "exception would come to the NSG on that basis."

But going back to the first question I think that Congressman Leach, or perhaps Congressman Berman, asked about standards by which we are judging countries. We are trying to create a sense that the NPT, accepting the NPT is very important. But there are other important elements of a regime on non-proliferation, as well.

And what this agreement does is it begins to make explicit what some of those elements are, what good non-proliferation behavior really is all about.

There is nothing in the NPT that says you ought to have a law that criminalizes behavior for the transfer of nuclear technology, because I don't think anybody thought about the kind of A.Q. Khan problem in 1970. But obviously one of our biggest problems is the illicit transfer and trade in weapons of mass destruction materials, and the ability therefore to produce them covertly. Particularly given that some of this is in the dual-use area.

So one of the things that we have tried to do is to bring up to standards laws around the world, national laws that would criminalize this kind of behavior. India now has passed a law, in 2005, that we think meets that standard, and will make it harder for Indian individuals or companies to engage in trade that might be detrimental on the non-proliferation side.

I don't think the NPT at the time recognized that you might have to therefore intercept cargo that might be dangerous. That is why the Proliferation Security Initiative, which is a voluntary association of now more than 60 states that use existing international law and existing national laws to search and, if necessary, seize cargoes that are illicit cargoes.

The NPT is an important cornerstone. But a lot has happened in the proliferation and the dangers of proliferation since that treaty was signed. And so what we are trying to do is to build a broader regime.

Another piece of this is, as the President said at the National Defense University, countries need to have access to civil nuclear technology. It would be very good if they did not have access to enrichment and reprocessing, because that is the part of the fuel cycle that is easily, you can divert to the making of nuclear weapons. So why not think about assured fuel supply? Either internationally or from a group of countries. That is another issue that had really not been dealt with in the period of 1970.

So I respect the NPT and its role. I respect the role that it has played in the past, I respect the role that it is going to play in the future.

But we do need a broader regime. And we need a regime that can deal with the anomaly that India presents. A country that never signed the NPT, that indeed has a strategic program, but that has been responsible in its proliferation behavior, now is seeking civil nuclear cooperation. And where most of the world would like to be able to give it to them.

Chairman HYDE. Mr. Smith of New Jersey.

Mr. SMITH. Thank you, Mr. Chairman.

Madame Secretary, first of all, it is always a privilege to both see and hear you. And I think we all agree not only do you stay here longer than any Secretary I have ever seen, but you answer the questions. And for that, we are all grateful.

Secretary RICE. Thank you.

Mr. SMITH. I have two basic questions. The first, on the issue of human rights. If you might speak to what extent the global partnership with India engages the issue of human rights. And I speak specifically of the trafficking issue. They may not export or import as many trafficked women as perhaps some other countries, but we know there is a horrific number of women who are trafficked throughout the state of India, mostly very, very young girls.

Secondly, on that same issue of human rights, missing girls. Recently a report was issued that found something on the order of 60 million girls missing in India as a direct result of sex-selection abortions. And that is second only to the Peoples Republic of China. Not only is that gendercide in and of itself that girls would be sought out and destroyed simply because they happen to be little girls, but it also raises serious problems about magnets for trafficking, especially as time progresses.

And on the dollets. I held a day-long hearing on the 200 million or so who are treated with a great deal of prejudice in India. What are we doing on that?

Furthermore, on the issue as it relates to today, H.R. 4974 obviously would waive sections 123, 128, and 129, and then list seven conditions that need to be met.

Looking over 123 again, I am reminded that physical security, issues of storage are issues that need to be met as part of that 123 agreement.

I am also concerned about nuclear waste. What is done? I have a nuclear reactor right near my district. There is on-site storage. Yucca Mountain is not even open, may never open. This is a serious problem; what do you do with nuclear material that lasts literally, or almost literally, forever? If you could speak to that, I would appreciate it.

Secretary RICE. Of course. Thank you, Congressman. First of all, on the trafficking issues. You and I have had a number of discussions, and thank you for your consistent interest in that, and of course for the legislation that has given us considerable tools to work on this issue.

We have talked with the Indians, and we don't think that the record is as it should be on the trafficking issues. We have been very clear with them.

They make the point that it is a huge and diverse country, with traditions that need to be overcome. But they are more than aware, and they don't want to be a country in which trafficking takes place. And I believe that is an absolutely sincere view. After all, it is a great democracy. It is a country that is emerging as a great multi-ethnic democracy on the world stage. And this kind of issue is not something that India wants to be associated with, and we do know that they have been putting together, that there are rights groups that operate freely in India.

One advantage to a democracy is that groups internally that wish to deal on these issues can do so, and do so freely and with the press. And so one of the advantages of dealing with a democracy is you can go about it a little differently than if you are dealing with it in an authoritarian system. But of course we raised these issues, all of the issues that you have raised, including the issues of discrimination against people of certain status in life.

I think they are going about it, both short term and long term, more and more people are challenging the system. I had a discussion of this with a couple of women legislators in India, that people are challenging the system; women are challenging the system.

But also, ultimately, in a country that is a billion people, but only 300 million in the middle class, a lot of this is going to also depend on education and outreach to some of the poorest. And I

think we can be helpful in that. But it is not a subject that is covered or hidden in our discussions with India; it is there in our dialogue.

As to the question of nuclear storage. The Indians have said they would store at Rajasthan and Tripura; that they would, in fact, safeguard the storage. And I think we will probably want to have some discussions with them about the technology. We could stand to learn a good deal from countries like India on storage. We all need to have that conversation. But there would be safeguarded facilities for the storage.

Mr. SMITH. Is there any significance to the eight that are not included in the—

Secretary RICE. They chose to designate those as non-civilian reactors. That is a sovereign right. We designate ourselves, others designate themselves.

But again, while 65 percent, two-thirds are now safeguarded, before there were 81 percent unsafeguarded. And we believe that that number is going to grow over time, as the civilian demands outstrip any other demands.

Chairman HYDE. Mr. Schiff of California.

Mr. SCHIFF. Madame Secretary, thank you for your testimony today. And you should be able to see the light at the end of the tunnel; we are almost through.

I think the United States-India relationship is one of the most important on the globe, and I strongly support efforts to improve that relationship. Of course, there are a number of avenues to do that outside of the nuclear realm, so that this is not the sole opportunity to improve and strengthen the United States-India relationship.

The concern that I have, and some of my colleagues have expressed it in various terms, I have put in the context of looking at some of the actions and policies with respect to the NPT. In my view, a real lost opportunity at the NPT review to have done more to strengthen the NPT, and then falling so closely on what I thought was an anemic effort at the NPT review to have a major nuclear deal outside the NPT, raises concerns about our commitment to strengthening and improving the NPT.

I have a couple interrelated questions. One gets back to a question that Representative Berman asked, and you have referred to several times, in terms of developing standards. That has a great deal of appeal, I think, to several Members of the Committee, because it doesn't open itself up to the argument of a double standard. In fact, you have one standard that India meets, that Pakistan, for example, would not meet, that Iran wouldn't meet, that North Korea wouldn't meet.

And it is much more attractive to me to have a piece of legislation come to this Committee to ask us to approve an agreement that you might subsequently enter into with a country that meets the standards that were set out before the Committee.

But as it is currently structured, we are being asked to, in advance, approve an agreement, the details of which we won't know at the time we are asked to approve it.

I would be much more comfortable with the sense of a Congress resolution talking about the importance of an expanded relation-

ship with India, with a mutually beneficial agreement, the terms to be arrived at; but not necessarily pre-approving or requiring later Congressional disapproval to that agreement.

But I would be most comfortable with one that set out standards that perhaps wasn't specific to one country, not open to the argument of a double standard. So I would like to get your reaction to that kind of a proposal.

I also wanted to get your thoughts on whether China might, at the suppliers group, push for a similar exemption for Pakistan. And again, these questions are interrelated, because if what we are proposing here, at least in Congress, is something that is country-neutral on its face, but has standards that are only met by a select few, then we are not susceptible to the argument that we are merely rewarding friends and punishing foes.

And finally, you mentioned that the agreement doesn't do anything to constrain the Indian nuclear weapons program, nor does it do anything, in your view, to facilitate it. There are some arguments that have been made, and you addressed one of them, about making the availability of fuel greater.

But even setting that aside, I guess the question is, when I look at this agreement on its face, it has a lot to commend itself for India. It has some to commend itself in the non-nuclear area for the United States. It has less to commend itself in the nuclear area. And because it seems to me such a good deal for India, I wonder why we couldn't push more, weren't more successful in getting more on the nuclear safeguard side, in terms of fissile material cut-off or some aspect of greater security, vis-a-vis the nuclear weapons program, than we were able to.

Secretary RICE. Thank you, Congressman Schiff. First of all, let me just address the question of an India-specific agreement versus some broader standards-based agreement.

The India situation is generous. It is the case that you have a state that has nuclear weapons, and we are indeed—it never signed the NPT, so it did not violate its NPT obligations. It never signed the NPT, but it did build nuclear weapons. And we are now asking to engage in civil nuclear cooperation with that state.

It is also the case that it has a very good record over the last 30 years on the proliferation side. And given that, you have a package that I think is pretty unique. And I think the complications of trying to have legislation that speaks to standards, which I can assure you that even if we thought—we, the Administration, and you, the Congress thought—that those standards were clear, that when it came to the application of those standards in the international system, we would start having a debate about whether those standards were being met.

So I actually don't think that you gain very much.

Mr. SCHIFF. Madame Secretary, wouldn't that be a healthy debate, though?

Secretary RICE. Well, I think it would simply delay the day in which we were actually able to engage in civil nuclear cooperation with the one state that is clearly, we believe, ready to engage in civil nuclear cooperation.

I think, rather, to have states debate, specifically, India's record, when we go to the nuclear suppliers group for instance, India's

record, India's circumstances, India's conditions is going to be a much cleaner and a much more effective discussion of whether India ought to be granted, by the nuclear suppliers group, this status.

I think if we try to do this on a kind of broad, principles-based, we are going to get into exactly the discussion that you probably don't want to have—what other states meet these “criteria.”

Now, I think implicitly in the legislation—

Mr. SCHIFF. If I may just interrupt for—

Chairman HYDE. Now, just a moment. You are well over your time. We are going to vote in about 3 minutes. I have two questions left, so if you don't mind.

Secretary RICE. I just tell you, dealing with the international system every day, I can see this debate. And it is not a debate that we want to have. We want to go with, say to the international system, here is the case of India; let us talk about the case of India.

Now, it is true that if you look at what India is agreeing to and what it has done, I think it begins to develop a set of standards that the international community might use. But I think to do that in reverse would be a mistake.

Perhaps China will raise the case of Pakistan. I don't think this case is going to get very far, given Pakistan's particular history in A.Q. Khan. And indeed, what the Administration has been trying to do is to broaden the non-proliferation regime to deal with cases like A.Q. Khan. And I think we have done a lot on that side.

But I really urge you to do this as an India-specific legislation. The time may come when we have developed those standards internationally, and I think we are working on that debate. But to have that debate prior to an India-specific debate I think is going to be a problem.

Chairman HYDE. Ms. McCollum of Minnesota.

Mr. MCCOLLUM. Thank you, Mr. Chairman. And Secretary Rice, I am happy to have you here today. I am going to take a moment of personal privilege and ask the Chair to ask you back, so we can have an oversight hearing on Iraq.

It has been 30 months since we have met as a Full Committee and discussed Iraq, and that is what I am hearing from my constituents in my district every day. They are very, very concerned about what they truly see as a lack of progress of Iraq being ready to stand up and secure its own freedoms and liberties for its own people without our servicemen and women.

Back to what Mr. Schiff was talking about, and you started to allude to it. You used the phrase, and I am paraphrasing, we think India is ready. We believe, referring to us as America.

And so Mr. Schiff's question was, shouldn't there be standards, so that there is something that, where the accountability is being totally laid out, it is being totally transparent, not only to the Congress and to the American people, but to our allies and other people who have signed the non-proliferation treaty? Spell it out.

In other words, with the reports that have been in the paper about what Pakistan has said, that if we move forward on this, that they are going to turn to China; and with the argument being made about how this is a boon for business and a boon for economies—we know China is trying to grow their economy. Are we giv-

ing China the opportunity now, and Russia the opportunity, to say well, this is what we think? These are our standards? We think it is okay, we have worked out an agreement with Pakistan; therefore, we are going to move forward with Pakistan?

Don't we lose out in our ability to speak to China and Russia about their interaction with other countries, because we are following another go-it-alone policy?

Secretary RICE. Well, thank you, Congresswoman, but I don't actually think, first of all, that it is a go-alone policy, since this will have to be approved by the nuclear suppliers group, of which Russia and China are members. Since the IAEA will have to develop the Safeguards Agreement, Russia and China are both members of the Board of Governors of the IAEA.

And I think everyone understands that there are standards that are here. A good proliferation record over 30 years, criminalization legislation. There are determinations the President will have to make in the legislation as to what the Indians have done. The Indians have taken on several unilateral obligations to adhere to standards of the nuclear suppliers group. They are talking to us about the Wassenaar Group, of the missile control technology regime.

There are standards here that I think will be understood. My point is that I don't want to debate those standards in the abstract. I would rather talk about a real country where we have a record.

Now, when it comes to the question of will others say well, let us put this country up for agreement. China, for instance, Pakistan. And by the way, the Pakistani Foreign Minister said he was taken out of context, because I think Pakistan understands its proliferation problem, and its proliferation record.

And so if China wants to make that argument, let China go to the nuclear suppliers group and say that Iran is deserving of a civil nuclear deal with enrichment and reprocessing on its territory. That is not what has been said here. Let us have anyone go and say that Pakistan is ready for this.

The point is that there are indeed international checks on this. The United States cannot unilaterally deliver this deal. What the United States is doing is taking leadership to propose India for a relationship with the non-proliferation regime that we think is healthy for India, and healthy for the non-proliferation regime.

But it would simply be wrong to say that the United States can unilaterally deliver this deal. We can't. That is why it has to go to the nuclear suppliers group. That is why the IAEA has to have safeguards.

And one final point. On Iran, I want to repeat again, civil nuclear power is available to Iran. The problem is that Iran has not been willing to accept the international systems assessment that if there is enrichment and reprocessing capability on Iranian soil, then there is a high risk of a diversion to military uses. That is the problem for Iran.

Chairman HYDE. Would the gentlelady desist, because we have votes pending?

Mr. Sherman, I will get to you first next time, I promise.

Mr. SHERMAN. Thank you. Oh, I think I could ask questions now and still make the vote. I am willing to do that, even if the Chairman or others want to go vote.

Chairman HYDE. Well, the Chairman wants to go vote. But before adjourning, anyone who has questions could submit them in writing. And we have the assurances of the Secretary that she will try to respond. And we hope that the Members have their questions in by the end of the week, if they want them a part of this record.

And Madame Secretary—

Mr. SHERMAN. Mr. Chairman, is there a harm if I were to ask questions while others went to vote?

Chairman HYDE. You can write some out.

Mr. SHERMAN. My penmanship is terrible.

Chairman HYDE. All right. Madame Secretary, on behalf of our colleagues, we want to commend you for your generous devotion of time today, for your informed and satisfying responses to Members' questions, for your graciousness, and most of all for your stamina. It certainly exceeds my own.

And regardless of one's position on this initiative, the impression you have left is a positive one, uniformly. And let me quote my good friend, Mr. Lantos, who told me quietly, she should run for higher office.

Secretary RICE. Oh, goodness.

Chairman HYDE. I don't know if he meant for President or for Commissioner of the National Football League.

Secretary RICE. I think it was the latter.

Mr. LANTOS. I meant the football league.

Chairman HYDE. I think you would get more money there.

Secretary RICE. Thank you.

Mr. LANTOS. May I add my thanks to yours? This was a bravura performance, Madame Secretary, and we are all deeply in your debt.

Secretary RICE. Thank you very much. Thank you.

Chairman HYDE. I would like to adopt that word, too, bravura. Thank you.

[Whereupon, at 4:07 p.m., the Committee hearing was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE RUSS CARNAHAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MISSOURI

Chairman Hyde and Ranking Member Lantos, thank you for holding this important hearing regarding the US—India relationship. Since the end of the Cold War and India's economic reform, great strides have been made between our two countries. Diplomatic progress should be continued and I commend the efforts made over the last decade.

However, improving our diplomatic relations should not be done at the expense of our own national security. It is important that we don't put our country or other countries in potential jeopardy as a result of the recently announced nuclear deal made by the Administration.

As proposed, this deal is riddled with potential problems and pitfalls. India has not signed the Nuclear Nonproliferation Treaty, and is not required to do so as part of this deal. Moreover, the Atomic Energy Act would be amended to essentially grant the President the power to approve of India's safety requirements while effectively stripping Congressional oversight.

Beyond the specifics of this deal, I am troubled that the Administration would enter into a nuclear agreement with a India given the real concern about the nuclear capabilities of other countries. While bypassing Congress in the process, you struck an agreement to enter into a deal that does not require full IAEA compliance at a time when we are faced with a potentially nuclear Iran. We should be sending a message of full international cooperation and adherence to the IAEA, not partial compliance.

Secretary Rice, I look forward to your testimony today. I am especially interested in hearing how you reconcile the current world situation and the potential negative impacts with the benefits the administration believes result from this agreement. Thank you for being here today.

RESPONSES FROM THE HONORABLE CONDOLEEZZA RICE, THE SECRETARY OF STATE,
U.S. DEPARTMENT OF STATE, TO QUESTIONS SUBMITTED FOR THE RECORD BY THE
HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF
ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

Question:

There is a press report that India provided naval training to Iranian sailors during a recent port visit by an Iranian vessel. India has denied that actual training took place. Has India provided any military training to Iranian military personnel in the recent past? Have they given the United States assurances that there will be no military training or military cooperation with Iran whatsoever?

Response:

India does not appear to have a significant military-to-military relationship with Iran. The Indian government has told us repeatedly that while Iranian ships occasionally make routine port calls, these interactions do not include substantive training or joint exercises. It is important to remember that many nations, including some of our closest allies, have diplomatic, economic, and/or military relationships with Iran, so India's limited contacts are in no way unusual. Nonetheless, we have expressed to the Indian government our concern about these contacts and we have been assured by the Indian government that there is not today, nor are there plans to develop, substantive bilateral military collaboration.

PROPOSED LEGISLATION

Question:

Under your proposed legislation (H.R. 4974), how would Congress provide the kinds of oversight of peaceful nuclear cooperation agreements provided for under Section(s) 123, 128 and 129 of the Atomic Energy Act?

Response:

Under H.R. 4974 Congress would have an opportunity to review a proposed U.S.-India agreement for cooperation for a total of 90 continuous session days, hold hearings, take testimony, and submit questions to the Executive branch on the proposed agreement. If Congress did not favor the proposed agreement, it could enact legislation before the conclusion of the review period to disapprove it, thereby preventing it from coming into force. (If the President vetoed the legislation and Congress wanted nonetheless to disapprove, it would be able to vote on whether to override.) If the President exempted the proposed agreement from any requirement of section 123(a) of the AEA not covered by H.R. 4974, Congress would have an opportunity to exercise its oversight role in a similar way, and in that case the agreement could not be brought into force unless Congress legislated to approve it.

H.R. 4974 would also provide new authority for the President to waive the application of section 128 and the application of any sanction under section 129 with respect to India on the basis of a determination that specified actions had occurred. If the President's determination ceased to be effective as provided in H.R. 4974, then Congressional oversight functions would be as provided in current law.

Question:

Under H.R. 4974, would a future Indian nuclear test invalidate the entire nuclear cooperation agreement or just halt nuclear exports?

(a) Under H.R. 4974, would a future Indian nuclear test invalidate any or all fuel assurances that the United States made per India's Implementation Document provided to the Indian Parliament on March 7, 2006. What would happen to the proposed strategic fuel reserve outlined in that document?

Response:

If India detonates a nuclear explosive device, exports of nuclear equipment and material to India under the bilateral peaceful nuclear cooperation agreement would be prohibited under section 129 of the Atomic Energy Act (which provides for such a prohibition if a country detonates a nuclear explosive device); already-exported items would remain subject to the terms of the bilateral agreement for peaceful nuclear cooperation; and any prior waiver of section 129 based on a Presidential determination under the proposed legislation would no longer be effective. The bilateral peaceful nuclear cooperation agreement would remain in effect as a matter of international law.

A detonation would also invalidate the waiver under Brownback II (P.L. 106-79, section 9001). This would reinstate a wide range of sanctions under the Glenn amendment (Arms Export Control Act, section 102(b)), as well as sanctions under the Export-Import Bank Act (section 2(b)(4)).

To clarify, the Indian government document referenced is just that, an *Indian* document that contains India's views on the fuel supply assurances it seeks. We have indicated to India our willingness to explore potential fuel assurance options, and the Indian document is generally reflective of these discussions to date; but these discussions are still quite exploratory in nature, and will require further discussion.

The fuel supply assurances considered by the United States are intended to assist India in securing reliable access to nuclear fuel for its safeguarded reactors. They are intended to mitigate disruptions caused by "acts of God" or *unprovoked* cutoffs of nuclear fuel supplies by foreign private or governmental entities. They are not intended to circumvent any current or future U.S. laws, and we believe that India can be provided with the assurances it needs regarding fuel supply within the framework of Indian commitments under the Initiative. Our negotiators were very clear that, while the U.S. would be willing to provide reasonable fuel assurances designed to counter market imperfections, fuel assurances could not be a "condition" to any of India's commitments under the plan—including, in particular, safeguards in perpetuity.

As noted clearly in the April 5, 2006 hearing, we "reserve the right" to take appropriate action should India violate our understanding under the Initiative. As we have made clear to the Indian government, our cooperation with India under the Initiative is predicated on India's implementation of its Joint Statement commitments, including its continued unilateral testing moratorium and compliance with its safeguards agreements. We believe that the Indian government intends to up-

hold the continuation of the unilateral test moratorium it committed to in the July 18, 2005 Joint Statement, and that it will act in good faith to comply with the safeguards agreements it has committed to undertake with the IAEA.

We have just begun to engage with India regarding the technical details of any fuel supply assurances, and this issue will likely factor into the negotiations relating to our bilateral agreement for peaceful nuclear cooperation. Any U.S. exports of fuel to India would require an export license from the NRC, the issuance of which must be based in part on a judgment by the Executive Branch that the proposed export will not be inimical to the common defense and security, in accordance with the provisions of the Atomic Energy Act. Such a license would be denied, suspended, or terminated if such a result is legally required, as discussed above, or if circumstances otherwise warrant.

Question:

What impact would H.R. 4974 have on export licensing procedures under sections 126 and 127 of the Atomic Energy Act? Similarly, with respect to the Nuclear Regulatory Commission, to what extent would H.R. 4974 impact licensing under 10 CFR Part 110 and 10 CFR Part 810, including, if applicable, reporting to Congress?

Response:

There would be no change under H.R. 4974 on export licensing procedures under sections 126 and 127 of the Atomic Energy Act, nor would there be any change or impact on Nuclear Regulatory Commission licensing of exports of nuclear materials and equipment under 10 CFR 110 or authorizations by the Secretary of Energy of nuclear technology transfers under 10 CFR 810, including applicable reporting to Congress.

Question:

What effect would H.R. 4974 have on the Congressional review requirements of section 130 of the Atomic Energy Act?

Response:

Section 130 establishes the congressional review procedures with respect to submissions by the President under sections 123, 126a.(2), 126b.(2), 128b, 129, 131a.(3) and 131f.(1)(A). Section 130 would be affected by the provisions of H.R. 4974 in that it would not apply to Presidential actions with respect to India under sections 128b. and 129; the provisions of the proposed legislation would govern. (Note that both section 128b. and section 129 currently provide for congressional disapproval of the President's action by concurrent resolution.) In view of the Supreme Court's decision in the Chadha case, Congress could enact new legislation to disapprove the President's actions under sections 128b and 129; in that sense, the situation is the same under current procedures as it would be under H.R. 4974.

Question:

What effect would H.R. 4974 have on any "subsequent arrangements" negotiated with India under section 131 of the Atomic Energy Act?

Response:

H.R. 4974 would have no effect on "subsequent arrangements" negotiated with India under section 131 of the Atomic Energy Act (AEA), with one possible exception. Paragraph 131a.(4) provides that "all other statutory requirements under other sections of [the AEA] for the approval or conduct of any arrangement subject to this subsection" must be satisfied before the subsequent arrangement may take effect. H.R. 4974 would affect this provision to the extent that it might otherwise require that sections 123 or 128 (as set forth in current law) must be satisfied for a subsequent arrangement with India.

Question:

To what extent, if any, would H.R. 4974 affect the preparation of a Nuclear Proliferation Assessment Statement with respect to a peaceful nuclear cooperation agreement with India as required under section 123 of the Atomic Energy Act?

Response:

H.R. 4974 would not affect the requirement for a Nuclear Proliferation Assessment Statement nor the preparation thereof.

Question:

How would H.R. 4974 impact implementation of the Iran and Syria Nonproliferation Act or other relevant U.S. statutes or Executive Orders that would terminate nuclear commerce or impose sanctions for proliferation activities?

Response:

H.R. 4974 would affect the operation of other statutes or other provisions of the Atomic Energy Act only to the extent that such provisions would affect the modifications to sections 123, 128, and 129 that are embodied in H.R. 4974. Thus, if another law established “competing” modifications to the waiver standard for sections 128 or 129, the modifications in H.R. 4974 would apply “notwithstanding” that other law.

Accordingly, H.R. 4974 would not have any effect on the operation of the Iran and Syria Nonproliferation Act, sections 101 and 102 of the Arms Export Control Act, or other nonproliferation sanctions provisions (except, of course, section 129).

Question:

Under H.R. 4974, what standard would be used to determine that “satisfactory progress” was being made toward implementing an Additional Protocol that would apply to India’s civil nuclear program?

Response:

The Administration is seeking to have India sign an Additional Protocol with the IAEA prior to the initiation of nuclear cooperation, but does not expect an Additional Protocol to be signed prior to submitting the agreement for cooperation to the U.S. Congress. The language of paragraph 1(b)(3)—like the language in most Presidential determinations—would make it a judgment for the President whether the standard had been met.

Question:

To what extent, if any, would the Administration consider alternatives to the stand-alone, India-specific legislation reflected by H.R. 4974?

Response:

The Administration had considered alternatives that were criteria-based or that amended the Atomic Energy Act more broadly. Based on our assessment, and following consultations with Congress, we believe that the India-specific approach embodied in H.R. 4974 would be most appropriate.

We believe India’s circumstances are unique with respect to its real and growing energy requirements, its solid nuclear nonproliferation export record, the enhanced nonproliferation commitments it has made, and in the context of the strategic importance of the country itself. Therefore, we believe the legislative proposal should reflect that: a proposal that provides an exception for India alone.

Question:

Under H.R. 4974, a safeguards agreement must have entered into force between India and the IAEA before the President makes a determination in Section 1(b). By many estimates, negotiations on the agreement could take 2 years, and India won’t place all of its civilian facilities under safeguards until 2014. In this context, why does the Administration believe Congress must act urgently to pass H.R. 4974? What are the specific negative consequences of not acting in the near future?

Response:

We believe it is important that Congress participate as a partner early in the process. It is clearly difficult to put together concurrently all the pieces necessary for U.S.-India civil nuclear cooperation—particularly, the U.S.-India agreement for peaceful nuclear cooperation, the India-IAEA safeguards agreement, and Nuclear Suppliers Group action to accommodate nuclear trade with India—without knowing whether Congress supports the Initiative in principle. We are also currently considering Congressional approval by affirmative vote under expedited procedures. Additionally, several of our NSG partners have indicated that they are looking to the U.S. for leadership on this, and are not prepared to act until after Congress acts.

We hope that Congress will take formal action during this session. Congressional action at the outset will assure India and the NSG that there is solid USG support for long-term civil nuclear cooperation with India.

U.S.-INDIAN NEGOTIATIONS

Question:

It was reported recently in the Washington Post that the Indians secured 99 percent of what they wanted in the negotiations. What specific commitments were the United States seeking from the Indians but did not receive?

Response:

In the negotiating process we sought a credible, transparent, and defensible separation plan, as well as safeguards in perpetuity on its present and future civil nuclear facilities. We discussed differences relating to the specific scope and contours of India's separation plan, and believe that India's plan meets our objectives. As a consequence, the percentage of India's thermal output from its power reactors under safeguards will increase from 19 percent under safeguards today to about 65 percent (including current thermal reactors and those under construction) under safeguards as a result of this Initiative. This will increase further as India procures or constructs additional civil thermal and civil breeder reactors; all future civil breeder and civil thermal reactors will be under safeguards.

We also sought a unilateral commitment from India, as we have for many years, to halt the production of fissile material for weapons. As we have outlined before, India maintained that it could not agree to a unilateral cap at this time. The U.S. nonetheless achieved an important objective by obtaining India's commitment to work toward the conclusion of a multilateral Fissile Material Cutoff Treaty (FMCT). Moreover, we remain willing to explore other intermediate options that might also serve such an objective. We continue to call on all states that produce fissile material for weapons purposes to observe a voluntary production moratorium, as the United States has for many years.

Question:

In a recent Los Angeles Times article, Undersecretary Joseph said, "It would be better to lock in this deal and then seek to achieve further results in subsequent nonproliferation discussions." What are these further results that we sought but could not achieve? What is the time line for achieving them?

Response:

Under Secretary Joseph testified in November 2005 that "The Joint Statement reached by President Bush and Prime Minister Singh is good both for India and for the United States, and offers a net gain for global nonproliferation efforts. Rather than layer on additional conditions or seek to renegotiate the Joint Statement, it would be better to lock-in this deal and then seek to achieve further results in subsequent nonproliferation discussions. We believe that this is a sound arrangement that should be supported because the commitments India has made will, when implemented, bring it into closer alignment with international nuclear nonproliferation standards and practices and, as such, strengthen the global nonproliferation regime."

We intend to continue to advance U.S. nonproliferation and counterproliferation interests as our bilateral strategic partnership further unfolds. Among the near-term actions that we would like to see are India's harmonization of its export control lists with the Wassenaar Agreement and with the Australia Group, as well as its participation in the Proliferation Security Initiative.

Question:

What is the present status of U.S. negotiations with India on the draft agreement for cooperation?

(a) Will you provide the Committee with a copy of the U.S. draft agreement for cooperation in its current form?

Response:

We are currently in the process of negotiating the bilateral agreement for peaceful nuclear cooperation with India. We hope to complete this process as quickly as possible. We have already briefed the Committee on what we seek to achieve in these negotiations, and will continue to do so. In this regard, we note that there are numerous section 123 agreements in force, following congressional review, that are illustrative of the content we are seeking in an agreement with India (with the exception of a provision for full-scope IAEA safeguards). Of course, Congress will have an opportunity to fully review the agreement once negotiations are complete and the agreement has been submitted for review.

Question:

What is the present status of U.S. negotiations with India on the draft agreement for cooperation?

(b) Has the Administration identified potentially difficult issues for negotiation of the agreement for cooperation with India?

Response:

In developing a U.S. negotiating strategy, the Administration identified issues that might prove difficult to resolve. The Government of India in its preliminary reaction to the U.S. draft text of the proposed section 123 agreement has also highlighted certain issues that may prove difficult from its standpoint. Negotiations are ongoing.

Question:

What is the present status of U.S. negotiations with India on the draft agreement for cooperation?

(c) Do you anticipate that the draft agreement will meet all the criteria of section 123(a) of the Atomic Energy Act except for the full-scope safeguards requirement?

(d) What kind of fuel assurances have you written into the agreement? What other nuclear cooperation agreements currently in force contain fuel supply assurances?

(e) Does the draft agreement for cooperation contain provisions terminating the agreement? If so, how do these provisions compare to provisions compare to provisions in other U.S. agreements for nuclear cooperation?

Response:

The draft text that we provided to the Government of India satisfies all the criteria of section 123(a) of the AEA except for section 123(a)(2)—full-scope IAEA safeguards. We will seek to conclude the agreement on that basis. Final language will depend, of course, on the outcome of negotiations with India but will satisfy all other relevant requirements of U.S. law.

The U.S. draft provides that the agreement may be terminated at any time by either Party on one year's written notice to the other Party. This is a standard provision in U.S. agreements for peaceful nuclear cooperation. Final language will depend on the outcome of negotiations with India.

U.S. NPT OBLIGATIONS

Question:

In a December 12, 2005 article in the Times of India, K. Subrahmanyam, widely regarded as one of India's foremost defense, security and strategic affairs expert, stated that "Given India's uranium ore crunch and the need to build up our minimum credible nuclear deterrent arsenal as fast as possible, it is to India's advantage to categorize as many power reactors as possible as civilian ones to be refueled by imported uranium and conserve our native uranium fuel for weapon-grade plutonium production." As the above quote suggests, some observers believe that the proposed civil nuclear initiative will free India from having to divide its limited uranium resources between its civilian and military programs. Even if India's current uranium requirement for nuclear weapons production is just five percent of its overall annual uranium requirement, doesn't an initiative that allows India to purchase uranium on the international market free up additional uranium that could be used for weapons development? Why wouldn't an easing of current or future uranium supply constraints on India's nuclear weapons program, as contemplated by the civil nuclear initiative, be a violation of our Article I NPT obligation to not assist "in any way" another state in its development of nuclear weapons?

(a) Could you please provide the Committee a legal analysis establishing that no aspect of the proposed civil nuclear agreement with India would in any way assist India's nuclear weapons program or in any way contravene U.S. obligations under the Nuclear Non-Proliferation Treaty?

Response:

The U.S.-India Initiative is about civil nuclear cooperation, not about India's strategic weapons program. Nothing that we are proposing would violate our NPT obligations, including the Article I obligation "not in any way to assist" India's nuclear weapons program. We remain fully committed to upholding all of our NPT obligations.

Under Article I of the NPT, nuclear weapon states such as the U.S. undertake, *inter alia*: ". . . not in any way to assist, encourage, or induce any non-nuclear weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices." Under Article III(2) of the NPT, all state parties undertake not to provide certain nuclear material and equipment to any non-nuclear weapon state (which includes non-parties, such as India) for peaceful purposes unless the nuclear material will be subject to safeguards.

The NPT does not treat peaceful nuclear cooperation under safeguards as "assisting" a non-nuclear weapon state to manufacture nuclear weapons. Indeed, Article III(2) establishes the basis under which NPT parties may engage in nuclear coopera-

tion with safeguarded facilities in countries that are not parties and do not have full-scope safeguards. The practice of the parties confirms this view, as a number of countries—the U.S., Canada, Russia, France, China—have provided fuel to India’s safeguarded facilities, both before and after the NPT entered into force (and before and after India’s 1974 detonation of a nuclear explosive device). Russia is also currently providing two light water reactors for India’s civil nuclear energy program.

In *The Nuclear Non-Proliferation Treaty* (the leading treatise on the negotiation of the NPT), Mohamed Shaker reached the same conclusion: “Almost any kind of international nuclear assistance is potentially useful to a nuclear-weapon program. However, the application of safeguards to all peaceful nuclear assistance to non-nuclear weapon States, as required by Article III, provides a means to establish and clarify the peaceful purposes of most international nuclear assistance.”

This conclusion is also supported by the practice of the parties to the NPT. The U.S. and Canada engaged in nuclear cooperation with India before and after the NPT entered into force. The supply of fuel under facility-specific (INFCIRC/66) safeguards agreements was understood to satisfy our obligations under the NPT. Even after India’s 1974 detonation, fuel was provided to India’s safeguarded Tarapur reactors by the United States, France, and Russia. Such fuel supply was understood to be consistent with the NPT. The Nuclear Suppliers Group did not make the political decision to adopt full-scope safeguards as a condition of supply until 1992.

The argument that foreign fuel supply could allow India to devote its domestic uranium substantially or even exclusively to its weapons program, should India so desire, does not change this legal conclusion. As previously noted, nothing in the NPT, its negotiating history, or the practice of the parties supports the notion that fuel supply to safeguarded reactors for peaceful purposes could be construed as “assisting in the manufacture of nuclear weapons” for purposes of Article I. Nuclear material and equipment exported by the U.S. would not be involved in any stage of the process of manufacturing nuclear weapons.

In essence, nuclear cooperation under safeguards does not fundamentally differ from other forms of energy cooperation (e.g., oil supply, clean coal technology, alternative fuels). All such energy assistance would arguably relieve India of its reliance on domestic uranium for energy production. Yet such energy assistance clearly could not be viewed as assisting India in the manufacture of nuclear weapons.

Under the U.S.-India Civil Nuclear Cooperation Initiative, India has committed to identifying and separating its civil and military nuclear facilities and programs, and to placing its civil facilities under IAEA safeguards, including monitoring and inspections. It also will sign and implement an Additional Protocol, which provides for broadened IAEA access to facilities and information regarding nuclear-related activities. These steps are designed to detect, with a view to preventing, diversion of any civil nuclear cooperation to India’s military program.

The Initiative does not cap Indian nuclear weapons production, but nothing to be provided to India under the Initiative will be used to enhance India’s military capability or add to its military stockpile. With or without this Initiative, India is capable of maintaining its existing nuclear arsenal. It has a functioning fuel cycle and demonstrated competence with nuclear technologies.

Based on our discussions with the Indian government, we do not believe that India plans to increase significantly its nuclear weapon production. India seeks to maintain only a “credible minimum deterrent.” Relative to its current capabilities, India seeks a much larger civil nuclear energy program to meet its real and growing energy needs. Moreover, a successfully-implemented Civil Nuclear Cooperation Initiative adds considerable incentives to grow its civil nuclear energy sector, since international cooperation will be allowed only with safeguarded facilities.

ROLE OF THE CIVIL NUCLEAR AGREEMENT

Question:

You have characterized the proposed civil nuclear initiative as an “essential step toward our goal of transforming America’s partnership with India.” Is this an assertion that this positive transformation cannot occur without agreement on this issue? To what extent will U.S.-India relations be set back if agreement on civil nuclear cooperation is not reached?

Response:

I testified that “The United States and India are laying the foundation for cooperation on major issues in the region and beyond, building on and building up a broad relationship between our peoples and governments. That broad relationship is across multiple fronts—economic, agricultural, cultural—and we will not, however, be able to fully realize the vision of this broad relationship unless we deal with

the problem before us, the impediments associated with civil nuclear cooperation, resolving them once and for all.”

Congress’ endorsement of the U.S.-India Civil Nuclear Cooperation Initiative will enable the United States to promote closer relations with India in the areas of civil nuclear energy cooperation and nonproliferation. This strategic achievement will also advance energy security, further environmental protection, and foster economic and technological development in both of our countries.

In addition, achieving full civil nuclear cooperation with India will remove an important source of discord that has constrained the U.S.-India bilateral relationship for over thirty years and promises a profound transformation in the way the United States and India will in the future. This Initiative is just part of our growing strategic partnership embodied by enhanced energy security, greater environmental protections, increased business opportunities, and a more secure future.

Implementing this Initiative will be a net gain for nonproliferation. Bringing India more closely in line with the international regime, as this Initiative does, will strengthen overall nonproliferation efforts. Under the Initiative, India’s civil nuclear facilities will be placed under IAEA safeguards and the Indian nuclear energy program will become far more transparent than it has been in the past. Moreover, India’s movement toward the international nonproliferation mainstream has already paid dividends in the form of Indian support for IAEA resolutions on Iran. These are clear advantages that would otherwise not be gained without this Initiative.

If this initiative did not proceed, we believe that there would be serious consequences for the ongoing transformation of our bilateral relationship. Additionally, India’s interest in moving beyond fossil fuel consumption to meet its energy needs would be set back, with negative consequences for both its economy and environment and on the world’s energy market. Global nonproliferation efforts would similarly suffer. The defeat of this Initiative would hand the enemies of our new relationship a major victory. We would be backsliding when we should be striding forward.

INDIA’S SEPARATION PLAN

Question:

India’s separation plan appears to create a potential cushion for India’s nuclear weapons program by leaving out eight indigenous power reactors that can produce plutonium, as well as India’s fast breeder reactors, which can be especially useful for making weapons-grade plutonium. What other fast breeder reactors in the world are not safeguarded, both in non-nuclear weapon states and in nuclear weapon states?

Response:

India chose not to declare as “civil” its 40MW fast breeder test reactor, its sole operational breeder reactor. (It is also building a 500MW prototype fast breeder reactor, which is scheduled to come on-line in 2010.) India did pledge to submit for safeguards all future civil breeder reactors. India retains the sovereign right to determine whether future indigenous reactors serve a civil or military function—as it does today. However, neither we nor our international partners will cooperate with non-civil or non-safeguarded facilities.

Among the NPT nuclear-weapon states, only Russia and France have operating fast breeder reactors. China has one under construction, and the United States and UK have a number of shut-down fast reactors. None of these fast breeder reactors is subject to IAEA safeguards, nor are they required to be under the NPT. All fast breeder reactors in non-nuclear weapon states party to the NPT are subject to IAEA safeguards.

Question:

The Administration has stated that the agreement would move India into the nonproliferation mainstream. But the separation plan currently leaves research reactors, enrichment, reprocessing facilities, fast breeder reactors and fuel fabrication facilities out of safeguards.

(a) What other states have safeguards arrangements that leave out research reactors, enrichment and reprocessing facilities, fast breeder reactors and some fuel fabrication facilities? In what way does a special status for India in these and other areas bring India into the nonproliferation mainstream?

Response:

India’s commitments under the Joint Statements of July 2005 and March 2006, once implemented, will more closely align it with the nonproliferation mainstream than at any previous time. India has not promised to end its nuclear weapons program, and its plan to separate its civil and military facilities and programs reflects

a continuation of its weapons-related activities. That plan also makes transparent for the first time the contours of India's civil nuclear energy program. In this context, a substantial portion of its current and expanding nuclear infrastructure will be submitted to IAEA safeguards.

Many other countries have safeguards agreements based on IAEA INFCIRC/66. These agreements provide for safeguards on specific material and facilities based on arrangements with foreign suppliers. Such agreements cover only the specified material and facilities, and cover other facilities only when they contain nuclear material that is subject to a safeguards requirement. In countries that have since joined the NPT as non-nuclear weapon states, those safeguards agreements have generally been suspended in favor of comprehensive safeguards agreements under the NPT.

India's decision to separate its civil and military nuclear facilities and programs and place the civil sector under IAEA safeguards represents a significant non-proliferation step. This decision and the other commitments India has undertaken in the July 18 Joint Statement demonstrate that India has become a constructive player in international efforts to combat the spread of nuclear weapons.

Question:

The Administration has stated that a separation agreement had to be defensible from a nonproliferation standpoint. Yet, by leaving India's fast breeder reactors out of safeguards, the plan would not appear to meet the Administration's own objectives as stated in the 2002 Strategy to Combat WMD e.g., to discourage the accumulation of unsafeguarded plutonium. How can this apparent conflict be resolved?

Response:

India's plan to separate its civil and military facilities and plans has been submitted to the U.S. Government and in our view is defensible from a nonproliferation standpoint. For it to be both credible and defensible from a nonproliferation standpoint, it had to capture more than just a token number of Indian nuclear facilities, which it did by encompassing nearly two-thirds of India's current and planned thermal power reactors as well as all future civil thermal and civil breeder reactors. Importantly, for the safeguards to be meaningful, India had to agree to apply IAEA safeguards in perpetuity; it did so. Once a reactor is under IAEA safeguards, it will remain there permanently and without any conditions. Further, in our view the plan also needed to include the upstream and downstream facilities associated with the safeguarded reactors to provide a true separation of civil and military programs. India committed to these steps, and we have concluded that its separation plan meets the criteria established: it is credible, transparent, and defensible from a non-proliferation standpoint.

Question:

Has India now identified all facilities that would be subject to IAEA safeguards? If so, please provide the Committee with that list. If it has not provided the Administration with a complete list, what is the reason for the delay?

Response:

As of April 5, 2006, India had not yet publicly identified all the facilities that it would declare civil and place under IAEA safeguards. We have encouraged India to do so as soon as possible.

INDIA'S SAFEGUARDS AGREEMENT

Question:

Has India decided to use the INFCIRC/66 model agreement as the base text for its safeguards agreement with the IAEA?

Response:

While India and the IAEA have not yet concluded their safeguards negotiations resulting from the Joint Statement, India already has several INFCIRC/66-type agreements with the IAEA. India has agreed to accept IAEA safeguards in perpetuity on its declared civil facilities, and INFCIRC/66 can provide a framework for such safeguards.

We also note that INFCIRC/66 is not in fact a "model agreement," unlike INFCIRC/153, whose text is used practically verbatim for NPT safeguards agreements. INFCIRC/66-type agreements normally draw on the INFCIRC/66 document and incorporate many of its provisions, but also contain agreement-specific language.

Question:

Many people appear to be under the impression that INFCIRC/66 (Rev. 2) agreements provide a reasonably complete system of safeguards covering nuclear material, equipment, and facilities.

(a) Does an INFCIRC/66 agreement include the requirement that once a facility is declared it must remain declared, and under inspection in perpetuity?

(b) Under an INFCIRC/66 agreement, do the safeguards apply to all nuclear material, equipment and facilities? If so, do you anticipate that this would be the case with India's safeguards agreement or will the Indian government seek to ensure that its safeguards obligation would be more limited?

Response:

India has agreed to safeguards on its civil facilities in perpetuity. The document INFCIRC/66 is entitled "The Agency's Safeguards System" and provided the basis for all safeguards applied by the IAEA before the Non-Proliferation Treaty. INFCIRC/66 is not a model agreement, and does not contain language identifying what items should be safeguarded or when. Rather, such language must be specifically formulated and included in the actual safeguards agreement between the Agency and the safeguarded state. INFCIRC/66-based safeguards agreements generally contain language that identifies facilities that are subject to permanent safeguards. Historically, these have been foreign-supplied facilities. In this case, India's commitments include both all foreign-supplied and indigenous facilities designated as civil.

Question:

What is the Administration's understanding of the statement in India's separation plan that the safeguards agreement will provide for "corrective measures that India may take to ensure uninterrupted operation of its civilian reactors in the event of disruption of foreign fuel supplies?"

Does the Administration anticipate that India will seek to ensure that its safeguards agreement only apply to foreign fuel?

Response:

The Government of India has not further defined what it means by "corrective measures," and this will clearly be an issue for discussion between India and the IAEA and between India and any prospective supplier. We expect any safeguards agreement India negotiates to be consistent with its pledge to place its civil nuclear facilities, including its civil reactors, under safeguards in perpetuity. Such safeguards would apply to all nuclear material in those facilities. We also expect to discuss issues relating to fuel supply assurances, to right of return, and to other potentially related issues in the context of our bilateral negotiations on an agreement for peaceful nuclear cooperation.

With respect to fuel, the Administration anticipates that India will allow the application of safeguards in the manner described in the separation plan. It is clear that India wishes to ensure foreign fuel supplies for its reactors, and that such foreign fuel must be subject to safeguards.

NUCLEAR SUPPLIERS GROUP (NSG)

Question:

The determination with respect to the Nuclear Suppliers Group (NSG) in H.R. 4974 says only that supply should be consistent with U.S. participation in the Nuclear Suppliers Group. This could be interpreted quite loosely. Why does the legislation not refer to current NSG guidelines? Does the Administration envisage changing the practice of making decisions by consensus? Are there circumstances relating to the civil nuclear agreement with India that could lead to a change in this practice by the U.S.?

Response:

The Administration does not seek to alter the consensus decision making procedures of the NSG Guidelines. Rather, we seek an NSG policy decision to exempt India from the full-scope safeguards provision of the Guidelines. Paragraph 1(b)(7) of the Administration's proposed legislation reflects this context, including the understanding that the NSG operates on a consensus basis.

The U.S. proposal would require the consensus of all NSG Participating Governments to be implemented. There would thus be no weakening of the NSG consensus rule under the U.S. proposal.

Question:

Will U.S. policy be changed to proceed over the objection of member states?

Response:

As we have indicated previously, we will not undercut the NSG. The U.S. proposal would require the consensus of all NSG Participating Governments to be implemented. The draft Presidential waiver language in the Administration's proposed legislation—Paragraph 1(b)(7)—accordingly requires an objective determination that peaceful nuclear cooperation with India is consistent with our membership in our the NSG, including our commitment to adhere to the policies of the NSG. This means that the NSG will have to have made a decision to accommodate such cooperation with India notwithstanding the full-scope safeguards requirement in the NSG Guidelines. Such decisions are taken by consensus.

The NSG has had the opportunity to discuss the Civil Nuclear Cooperation Initiative on two occasions, and will next discuss the Initiative in June. We anticipate that the NSG will further consider the Initiative in the Fall timeframe.

Question:

What were the objections of NSG members to considering the U.S. draft decision at the May NSG plenary? Are there restrictions on cooperation with India that some NSG members are seeking, for example, in enrichment or reprocessing?

Response:

We do not intend to seek an NSG decision on the draft U.S. proposal at the June 2006 NSG Plenary, but rather, as we have indicated to our NSG partners, to seek this "at an appropriate time." With respect to enrichment and reprocessing, we have informed our NSG partners that we do not seek to provide enrichment or reprocessing technologies to India. Moreover, we would note that NSG members have generally sought to tighten controls over such technologies, and are actively considering how best to do so.

Question:

Will the United States call an extraordinary NSG plenary to consider this issue?

Response:

As indicated above, the United States plans to seek an NSG decision on the draft U.S. proposal "at an appropriate time." We anticipate further discussion with our NSG partners in the Fall timeframe.

Question:

Will the Bush Administration await passage by Congress of some form of legislation to create an exception for India to relevant provisions of the Atomic Energy Act before asking NSG members to create an exception for India from NSG guidelines?

Response:

The Administration is committed to seeking progress on both Congressional action and development of the necessary consensus among NSG members to create an exception to the full-scope safeguards requirement of the NSG guidelines for India. In our view, U.S. legislative changes should precede an NSG decision. We believe it is important to bring Congress in as a partner early in the process, and seek positive action by Congress before seeking a final NSG decision. Additionally, some NSG countries have indicated that they are looking to the U.S. for leadership on this issue and are not prepared to act before Congress indicates its intent.

Question:

The Committee understands that the Department's draft NSG decision that was circulated at the NSG Experts Meeting in Vienna, Austria, in March 2006, and otherwise publicly available, stated that "trigger list items and/or related technology" may be exported to India "as long as the" NSG member government intending to make the transfer was "satisfied" that India is meeting the criteria in the Administration's proposal for civil nuclear cooperation. If this proposal were adopted, would it mean that so long as an NSG member government is satisfied that India is meeting the criteria in the Administration's proposal for civilian nuclear cooperation, it would have full discretion to export any trigger list item it wishes to India?

(a) Would the Administration's draft NSG decision have permitted the export of enrichment and reprocessing technology to India? Why or why not?

Response:

NSG actions, such as approval of the U.S. proposal, would require a consensus of all NSG Participating Governments. After a consensus decision is reached to

allow civil nuclear cooperation with India, it would be up to each supplier to continue to satisfy itself that the criteria continue to apply. If a supplier has a concern that the criteria are not being met, then the supplier may raise the issue in the NSG and potentially seek a reconsideration of the decision enabling civil nuclear cooperation with India.

With respect to enrichment and reprocessing, the transfer of such equipment and technology is already addressed in the NSG Guidelines, INFCIRC/254/Rev.7/Part1. Therefore, it was not deemed necessary for the proposed resolution to also address the matter. In this context, we have also informed our NSG partners that we do not intend to provide enrichment or reprocessing technologies to India. Our bilateral agreement for peaceful nuclear cooperation will not permit such transfers to be made under it.

There has been no discussion of possible transfers of enrichment or reprocessing technology to India, or any Indian requests for such technology. NSG Participating Governments have made clear that they are currently not contemplating any new transfers of enrichment and reprocessing technology and in fact are considering strengthening the controls over such transfers. This consensus among NSG Participating Governments reflects the U.S. initiative to prevent the further spread of enrichment and reprocessing technology. Similarly, India has committed to refraining from exports of enrichment and reprocessing technologies to states that do not already have them and to supporting international efforts to limit their spread.

Question:

Reportedly, Russia announced to the NSG on February 27 that it would supply India's Tarapur reactors with low-enriched uranium fuel under the NSG's safety exception. What are the State Department's views on this, and what were the reactions of other NSG members to Russia's announcement? If the U.S. has interpreted this as an acceptable rationale, does this constitute a valid precedent for use in other situations and by other countries?

Response:

We expressed our strong disappointment to both Russia and India regarding the Russian decision to once again, as in 2001, supply nuclear fuel to the Tarapur reactors. The United States and the great majority of other NSG Participating Governments strongly disagreed with the Russian position that the safety exemption to the full-scope safeguards supply policy in the NSG Guidelines applied to Tarapur. We also expressed concern to both Russia and India that the Russian decision to supply without prior NSG consultation would lead NSG Participating Governments to be less open-minded when considering the U.S. proposal for civil nuclear cooperation with India.

In view of the strong rejection by the U.S. and the great majority of NSG member states of the Russian rationale, it is unlikely that the rationale would be regarded as a valid precedent by other countries to use in other similar situations.

Question:

What is your response to countries, including major allies of the United States like Japan, which have forsaken nuclear weapons and long-range missiles and now have reservations about your change in direction with India?

Response:

We have discussed the Civil Nuclear Cooperation Initiative with many of our partners and allies, and within the Nuclear Suppliers Group. We have underscored that this Initiative is not about nuclear weapons, that we do not recognize India as a nuclear weapon state, do not seek to change the NPT, and will not undercut the NSG. We also explain that the gains from this Initiative, once implemented, are many and varied. These include, inter alia: deepening our strategic partnership with India; enhancing energy security by helping India's large population meet its real and growing energy needs; protecting the environment, since nuclear energy represents a cleaner alternative than other available options; opening up trade and investment opportunities for American and international businesses; and more closely aligning India with the international nonproliferation mainstream.

We would also underscore that we have no indication that any country is reconsidering its own adherence to the NPT as a result of on this Initiative. In our view, any such future reassessment would likely be triggered by other variables, such as a significant change to a regional security situation that prompts reconsideration of a state's security posture in that specific context.

GUARANTEE OF SUPPLY

Question:

Please provide your understanding of the four fuel assurances the United States committed to in March 2006, per India's Separation Plan tabled to the India Parliament on March 7, 2006. What are the specific mechanisms and conditions that are envisaged? Are there circumstances in which the U.S. guarantee would cease to apply? Has this guarantee of supply been given to other countries?

Response:

We have indicated to India our willingness to explore potential fuel assurance options, but these discussions are still quite exploratory in nature. Such assurances are not typically part of standard U.S. agreements with other countries, although some agreements for peaceful nuclear cooperation (for example, with Ukraine) have also addressed this issue.

The fuel supply assurances considered by the United States are intended to assist India in securing reliable access to nuclear fuel for its safeguarded reactors. They are intended to mitigate disruptions caused by "acts of God" or *unprovoked* cutoffs of nuclear fuel supplies by foreign private or governmental entities. They are not intended to circumvent any current or future U.S. laws, and we believe that India can be provided with the assurances it needs regarding fuel supply within the framework of Indian commitments under the Initiative. Our negotiators were very clear that, while the U.S. would be willing to provide reasonable fuel assurances designed to counter market imperfections, fuel assurances could not be a "condition" to any of India's commitments under the plan—including, in particular, safeguards in perpetuity.

The United States is also working with other major nuclear fuel suppliers and the IAEA to develop a mechanism for providing assurances of reliable nuclear fuel supply to countries that refrain from developing enrichment and reprocessing capabilities. Of course, India would not be eligible for fuel assurances under this mechanism, since it already has enrichment and reprocessing capabilities.

INDIA'S NONPROLIFERATION RECORD

Question:

Under the Iran and Syria Nonproliferation Act, the Department of State has imposed sanctions four times in the last 30 months on Indian nuclear scientists and Indian chemical firms. (Only China has been sanctioned under this law more often in this period.) The scientists were both former CEOs of the Nuclear Power Corporation of India, Ltd., our main partner under the civil nuclear agreement. This kind of illicit activity is usually not associated with a country that has "impeccable" nonproliferation credentials. What kind of pledges do you have from India that there will be no recurrence of such misconduct? Although sanctions were lifted on one of the Indian nuclear scientists recently, sanctions still remain on the other Indian nuclear scientist. Please provide more detailed information on why sanctions were imposed and why they remain on that nuclear scientist, in classified form if necessary.

Response:

In September 2004, the U.S. imposed Iran Nonproliferation Act (INPA) penalties on Dr. C. Surendar and Dr. Y.S.R. Prasad; penalties on Dr. Surendar were rescinded in December 2005. We would be happy to discuss these specific cases or other sanctions-related considerations in an appropriate classified setting.

Each referenced case occurred before India enacted its new Weapons of Mass Destruction (WMD) and their Delivery Systems (Prohibitions of Unlawful Activities) Act in June 2005. India's WMD Act, with its stronger "catch-all" provisions, strengthens considerably the government's regulatory ability to control transfers of otherwise uncontrolled items that could contribute to a WMD or missile program of concern.

Question:

The Administration has emphasized that this agreement will result in several "new" commitments by India regarding its export control mechanisms. However, India's principal export control law was passed during the May 2005 NPT Review Conference (before the July Joint Statement) in fulfillment of India's obligation under Resolution 1540 (April 28, 2004). Similarly, Prime Minister Singh told the Indian parliament that there are no new commitments by India on testing and fissile material, only reaffirmations of positions established by the previous Indian government. Could you clarify what, if anything, is new in these areas?

Response:

Prior to the July 18, 2005 Joint Statement, India had undertaken some non-proliferation measures that provided a solid foundation for the Civil Nuclear Cooperation Initiative. For example, it had passed new legislation, consistent with India's obligation under UN Security Council Resolution 1540, to enhance controls over the export and transit of weapons of mass destruction, associated delivery systems, and related technology. Moreover, the U.S.-India Next Steps in Strategic Partnership (NSSP) sought, *inter alia*, India's harmonization of its control lists with and unilateral adherence to the Nuclear Suppliers Group (NSG) Guidelines and the Missile Technology Control Regime (MTCR) Annex and Guidelines. This commitment by India was reflected in the July 18, 2005 Joint Statement. Under the July 18 Joint Statement, India made the following new commitments:

- Identifying and separating its civil and military nuclear facilities and programs;
- Accepting IAEA safeguards in perpetuity on its civil nuclear facilities (also on all future civil reactors—both breeder and thermal);
- Signing and adhering to an Additional Protocol with the IAEA;
- Refraining from the transfer of enrichment and reprocessing technologies to states that do not have them and supporting international efforts to limit their spread; and
- Working with the U.S. for the conclusion of a multilateral Fissile Material Cutoff Treaty.

While UN Security Council Resolution 1540 required India to establish appropriate and effective export control measures, it did not specifically require harmonization of national export controls with specific regimes, such as the NSG and MTCR. Unilateral adherence to these regimes is a significant step. It indicates the seriousness of India's commitment to prevent onward proliferation, and that India seeks to implement the export controls on sensitive items in the same manner as the members of the NSG and the MTCR.

In addition, prior to the U.S.-India Civil Nuclear Cooperation Initiative, India had undertaken a unilateral moratorium on nuclear weapons testing. India has committed under this Initiative to continue this unilateral moratorium. Including the testing moratorium among India's commitments under this Initiative will create substantial new economic and energy incentives for India to maintain that moratorium.

Each of these commitments is significant in its own right. Taken together, we believe these commitments represent a net gain for global nonproliferation efforts.

Question:

What steps will the Government of India take to facilitate robust implementation of its new export control law? How will India educate companies about the new laws and any related implementing regulations? Will India increase the number of personnel in relevant ministries? Has the Administration requested or received any assurances from India about re-export of sensitive technologies?

Response:

India's 2005 Weapons of Mass Destruction (WMD) and their Delivery Systems (Prohibitions of Unlawful Activities) Act, and subsequent implementing regulations, constitute significant improvements in India's export control system. On the whole, the Act and implementing regulations bring Indian export controls further in line with widely accepted export control standards for preventing WMD proliferation and are consistent with the kinds of measures that UNSCR 1540 requires states to implement.

As we understand the Indian law, re-export from India of foreign-origin equipment exported to India, if of types covered by India's own control list and catch-all controls, would be subject to the same requirements that apply to export of Indian-origin goods. Export control licenses normally have conditions attached that prohibit re-export, retransfer, or use in sensitive nuclear, chemical, biological, or missile end uses; we require applicants to inform end-users of the licensing conditions. In addition we did receive written assurances from the Government of India committing it to ensure that items are not transferred from or through India for use in prohibited unsafeguarded nuclear, WMD, or WMD delivery programs. Also through post-shipment verifications, the U.S. visits recipients of U.S.-origin items to ensure that the items have actually been delivered to the authorized ultimate consignee or end-user and those items are being used as stated on the export license application.

These assurances were received as part of the Next Steps in Strategic Partnership (NSSP), completed in July 2005.

Question:

Has the Department seen the Institute for Science and International Security (ISIS) report from March 10th alleging that Indian government entities leaked centrifuge design information while procuring parts for its gas centrifuge program? Do you believe the report to be accurate or inaccurate? If you believe the report to be accurate, has the Administration discussed or reviewed India's guidelines and procedures for classifying information about gas centrifuges?

Response:

We have seen the report. We would be happy to discuss these allegations in a classified setting, as appropriate.

INDIA'S FOREIGN POLICY

Question:

The Administration describes a new "strategic partnership" with India in justifying the nuclear agreement to Congress and to the American people. But Indian Prime Minister Singh has publicly stated that the nuclear agreement would contribute to India's ambition in achieving a multi-polar world, one with greatly diminished U.S. influence. What is the difference between what PM Singh has said about "multi-polarity" and what Vladimir Putin and Jacques Chirac mean when they use this term to denounce America's active role in the world?

Response:

Rather than making the term synonymous with a condemnation of America's active role in the world, as the question implies, we believe that all three leaders mean the term "multipolarity" mainly as encouragement and rationale for countries such as India, Russia, and France to gain greater relative power and influence. In principle, the United States welcomes India's rise in Asia. As we have indicated previously, this Initiative is not designed to promote India as a counterweight against any other state, such as China, as some nongovernmental commentators have suggested.

Question:

The growth of China's power and influence, and its meaning for regional and global politics, are a central concern for American policy makers. What role do we expect India to play in "managing" China's rise? Are India-China relations more likely to be cooperative or competitive in coming years?

Response:

India has a clear strategic interest in maintaining good relations with China, as does the United States, and the two countries have recently been moving towards closer cooperation on a range of issues. The United States encourages these good relations as important to the continued stability and prosperity of Asia.

Question:

One of the "strategic initiatives" of the President's visit to India was "deepening democracy and meeting international challenges." During his visit President Bush mentioned Iran, Syria and Myanmar (Burma) as examples of oppressive regimes. Yet, India has friendly relations with all three regimes. What is India doing to promote democracy in these countries?

Response:

As two of the world's largest democracies, the United States and India are key partners in the promotion of democracy. President Bush has highlighted the launch of the Global Democracy Initiative, a joint venture between India and the United States to promote democracy and development around the world. As part of this Initiative, India and the United States are advancing the United Nations Democracy Fund, to which the U.S. has contributed \$18 million and India \$10 million. The Fund will provide grants to governments, civil institutions, and international organizations to help them administer elections, fight corruption, and build the rule of law in emerging democratic nations. As an Advisory Board member, India can support organization committed to democratic change in countries such as Iran, Syria, and Myanmar through the UN Democracy Fund. India and the United States are also working bilaterally to build the capacity of democratic institutions in countries that lack them. Additionally, India is working directly with other nations to share

its experience of building a multi-ethnic democracy that respects the rights of religious minorities.

Question:

In a September 21, 2005 speech before the National Committee on U.S.-China relations, Deputy Secretary of State Zoellick stated that "China's involvement with troublesome states indicates at best a blindness to consequences and at worst something more ominous." He added later that a "mercantilist strategy leads to partnerships with regimes that hurt China's reputation and lead others to question its intentions."

Understanding that India is a democracy and that China remains an authoritarian polity, please describe the substantive differences, if any, between China's external energy policy and India's.

Using an accepted index of political freedom, such as that developed by Freedom House or the Economist Intelligence Unit, please list and rank those oil and/or natural gas producing countries with which Indian companies do business, whether those Indian entities be private or state-owned.

Response:

Both India and China have become increasingly reliant on international markets for imports to fuel their economic growth. Nearly 70% of Indian oil consumption is dependent on imports. Like China, it has increased its energy diplomacy with states in the South Asia region, as well as states in Central Asia, Russia, the Middle East, Latin America and Africa. The Indian state-owned Oil and Natural Gas Company (ONGC) has invested \$3.5 billion in overseas exploration since 2000. It has invested in gas fields in Vietnam, as well as energy projects in Algeria, Kazakhstan, Indonesia, Venezuela, Libya and Syria. Indian private sector firms have pursued projects in Iran, Yemen and in Africa. Pipelines involving Iran, Turkmenistan, Burma and Bangladesh have also been considered in recent years. India now appears to favor a pipeline from Turkmenistan rather than one from Iran.

Both Indian and Chinese firms have competed for energy investments in similar countries. In the past several years, Chinese firms have outbid Indian energy firms in Sudan, Kazakhstan, Indonesia and Angola. Concern over this energy competition has led to Indian efforts to pursue joint ventures with Chinese firms in Russia, Syria and Sudan.

This strategy of intensified acquisition of equity oil has met with considerable skepticism from international oil market analysts since these overseas investments are unlikely to shelter China and India from volatility in the oil market. Equity investments by China and India in distant producing fields in Africa, Latin America, or the Middle East are not likely to improve the physical security of their energy supply. Whether purchased on the open market, or produced by its national oil companies, both countries will effectively pay the world market price either directly or in foregone revenues if they were to ship every barrel of equity oil back home. The U.S.-India Civil Nuclear Cooperation Initiative would allow India to increase its access to nuclear energy and reduce its reliance on fossil fuels.

Attachment 1

Oil and Gas Producing Countries with investments by Indian companies; including rankings of political rights (PR) and civil liberties (CL) from 2006 Freedom House index. (1 represents most freedom, 7 represents least free)

Country	PR	CL
Algeria	6	5
Australia	1	1
Bangladesh	4	4
Burma	7	7
Cote d'Ivoire	6	6
Cuba	7	7
Egypt	6	5
Indonesia	2	3
Iran	6	6
Iraq	6	5
Kazakhstan	6	5
Kuwait	4	5
Libya	7	7
Mauritius	1	2
Nigeria	4	4
Qatar	6	5
Russia	6	5
Saudi Arabia	7	6
Sri Lanka	3	3
Sudan	7	7
Syria	7	7
UAE	6	6
Venezuela	4	4
Vietnam	7	5
Yemen	5	5

Question:

Given that U.S. and Indian interests in South Asia and elsewhere will remain essentially the same regardless of the fate of the agreement on civil nuclear cooperation, what specific areas of interest and cooperation will suffer a significant negative impact if the agreement does not go into effect? Are the perceived benefits largely general and undefined e.g., a more positive outlook—or are there specific areas of interest and cooperation that will be affected? If the latter, please provide examples.

Response:

As I testified, “The United States and India are laying the foundation for cooperation on major issues in the region and beyond, building on and building up a broad relationship between our peoples and governments. That broad relationship is across multiple fronts—economic, agricultural, cultural—and we will not, however, be able to fully realize the vision of this broad relationship unless we deal with the problem before us, the impediments associated with civil nuclear cooperation, resolving them once and for all.”

Congress’ endorsement of the U.S.-India Civil Nuclear Cooperation Initiative will enable the United States to promote closer relations with India in the areas of civil nuclear energy cooperation and nonproliferation. This strategic achievement will also advance energy security, further environmental protection, and foster economic and technological development in both of our countries.

In addition, achieving full civil nuclear cooperation with India will remove an important source of discord that has constrained the U.S.-India bilateral relationship for over thirty years. This initiative is part of our growing strategic partnership embodied by enhanced energy security, greater environmental protections, increased business opportunities, and a more secure future.

Implementing this initiative will be a net gain for nonproliferation. For too long now, India has stood outside global nonproliferation efforts. Bringing India more closely in line with the international regime, as this Initiative does, will strengthen overall nonproliferation efforts. Under the Initiative, India’s civil nuclear facilities will be placed under IAEA safeguards and the Indian nuclear energy program will become far more transparent. Moreover, India’s movement toward the international nonproliferation mainstream has already paid dividends in the form of Indian support for IAEA resolutions on Iran. These are clear advantages that would otherwise not be gained without this Initiative.

If this Initiative did not proceed, we believe that there would be negative consequences for the ongoing transformation of our bilateral relationship. We believe India’s interest in moving beyond fossil fuel consumption to meet its growing energy needs would be set back, with harmful consequences for both its economy and environment and on the world’s energy market. Our efforts to bring India into the global nonproliferation mainstream would also suffer. We would be backsliding when we should be striding forward.

IRAN

Question:

India and Iran have a history of positive relations, and Indian leaders repeatedly insist that their close friendship with Iran will continue despite closer ties to the United States. To what extent are New Delhi’s intentions to maintain good relations with Tehran at odds with our conceptions of our new relationship? Other than its past votes at the IAEA, what specific assistance has India provided regarding halting Iran’s efforts to proceed with its nuclear weapons program?

Response:

In key areas, U.S. and Indian interests converge. Indian officials have indicated that they share our view that Iran should not develop or acquire nuclear weapons. As the India-U.S. partnership develops, we expect to see greater cooperation from India on curbing Tehran’s nuclear weapons ambitions. India’s past two votes at the IAEA regarding Iran are evidence of this growing cooperation. India has also repeatedly stated that NPT members should abide by their obligations under the treaty. We encourage the Indians, as we do with other friends and allies that have economic relations with Tehran (e.g., Russia and France), to make greater efforts to discourage and inhibit Iran’s nuclear weapons-related ambitions.

Question:

Has the Administration made requests of India regarding assisting U.S. policy toward Iran that India has refused to agree to?

Response:

We continue to engage India actively on our policy toward Iran and other countries. We are firmly opposed to the Iran-Pakistan-India pipeline as a matter of policy. We have asked India to reconsider the project. Little, if any, progress beyond discussion between the three countries has actually occurred on this, and India recently agreed to join the Turkmenistan-Afghanistan-Pakistan (TAP) pipeline project.

We have also expressed to the Indian government our concern about Indian military-to-military contacts with Iran. The Indian government has told us repeatedly that while Iranian ships occasionally make routine port calls, these interactions do

not include substantive training or joint exercises. We have been assured by the Indian government that there is not today, nor are there plans to develop, substantive bilateral military collaboration.

Question:

Why did the Administration not link termination of India's multibillion dollar gas pipeline deal with Iran to the nuclear agreement with our country, particularly as Iran will likely use the revenues from India to help fund its military buildup?

Response:

The United States regards the proposed Iran-Pakistan-India pipeline as a separate issue from the Civil Nuclear Cooperation Initiative, related only by India's real and growing energy needs. The United States remains firmly opposed to the Iran-Pakistan-India pipeline as a matter of U.S. law and policy. We have asked India to reconsider the project. India has listened to our request and arguments but, referencing its significant energy needs, still insists it needs the pipeline. A successfully implemented Civil Nuclear Cooperation Initiative will help broaden India's ability to pursue other forms of energy and, ultimately, diversify its energy base.

Question:

Although the United States does not anticipate nuclear cooperation with Pakistan, would the United States object if other states exported nuclear technology to Pakistan?

Response:

Yes. The U.S. does not support and does not seek a policy exception for Pakistan by the NSG. We expect that many in the international community share this view.

Of the three states that have never been parties to the Nuclear Non-Proliferation Treaty, India's circumstances are unique. It faces real and growing energy needs; it has an advanced civil nuclear infrastructure and program; it has a solid record in refraining from nuclear exports; and it has made nonproliferation commitments that, when implemented, will more closely align it with the global nonproliferation mainstream. India's case alone warrants an exception in U.S. law and in NSG policy.

The United States is joined by other states, such as France, the United Kingdom, Russia, Australia, and others in viewing India as a special case. Because the NSG works on the basis of consensus, any participating government, including the United States, can block consensus on actions by the group. There must be a consensus of all 45 NSG countries for there to be an accommodation to the NSG Guidelines for India, or for any other states that may seek such treatment. Thus, any other NSG participating government that might seek similar accommodations for Pakistan, as the question suggests, would need the support of all other participating governments to implement such accommodation. We do not believe that the 45 member states of the Nuclear Suppliers Group would reach consensus on such an accommodation, and we do not support such an Initiative with Pakistan. We expect all NSG Participating Governments to follow the NSG guidelines.

Question:

Former Pakistani Foreign Minister Abdul Sattar commented recently that an expansion by India of its nuclear weapons and missile arsenal would force Pakistan to increase production of fissile material production and accelerate its missile development program. Do you believe that Sattar was speaking truthfully? What is the level of concern that this buildup will occur? Do you believe that the potential negative impact on stability on the Subcontinent is negligible or acceptable? Are you concerned that this will encourage Pakistan to turn to China for more nuclear and missile technology?

Response:

The U.S.-India Civil Nuclear Cooperation Initiative is about energy, not weapons. IAEA safeguards, including an Additional Protocol, will be designed to detect, with a view to preventing, diversion of civil nuclear cooperation to India's military program or to any other unauthorized use. The Initiative also brings nearly two-thirds of India's thermal power reactors under safeguards, in effect restricting certain facilities to only producing civil energy—facilities that could otherwise be used for nuclear weapons-related purposes.

We have kept the Pakistani government informed about our discussions with India at every appropriate stage. Moreover, both India and Pakistan have publicly and privately indicated their unilateral commitments to pursue what they term "credible minimum" deterrents. We also believe that any potential for an Indo-Paki-

stani arms competition will be mainly determined by the bilateral relationship between India and Pakistan, rather than this Initiative. We would note that their current bilateral relationship appears to be improving. Indian Prime Minister Singh recently offered a treaty of peace, security, and friendship to Pakistan. Pakistan's Foreign Office immediately welcomed the offer as a "positive acknowledgement" of the need to move forward on Kashmir and other bilateral issues, and said that both countries needed to take "bold steps to resolve the outstanding issues." As part of their Composite Dialogue, India and Pakistan are discussing nuclear confidence building, including an agreement concerning prevention of nuclear accidents.

We would like both countries to do more to avoid the potential for increased arms competition and nuclear use, and we expect they will. Former Foreign Minister Sattar paints a worst-case scenario. We have ongoing nonproliferation and strategic stability talks with both countries, and we continue our diplomatic efforts with both to encourage greater cognizance of these potentialities, along with greater diligence to reduce risks. We also continue our strategic dialogue with China, where we encourage Chinese diligence in avoiding proliferation to Pakistan.

We would note that any nuclear assistance by China to Pakistan beyond what is specifically grandfathered—lifetime support and fuel supply for the safeguarded Chasma I and II nuclear power plants, supply of heavy water and operational safety service to the safeguarded Karachi nuclear power plant, and supply of fuel and operational safety service to the two safeguarded research reactors at PINSTECH—would be a violation of the guidelines of the NSG, of which China is a member.

Furthermore, any exports of equipment or technology by China that could in any way assist Pakistan's nuclear weapons or ballistic missile programs would be inconsistent with the commitments which China made to the United States in 1998.

Question:

Does our unambiguous turn toward India harm President Musharraf's domestic standing and make it more difficult for Pakistan to cooperate in the War on Terror, given increasing opposition in that country to cooperation with the United States?

Response:

Since last July's announcement of the Civil Nuclear Cooperation Initiative with India, we have consulted with Pakistan's leadership regularly on the issue. We have been clear that the Initiative involves only civil nuclear cooperation, that it does not address Indian nuclear military capabilities, that India's growing energy demand is exceptional, and that India has developed a solid nuclear nonproliferation export record over the years. These discussions have been set in the framework of our consistent position that our relationships with India and Pakistan are different, because each involves different needs and opportunities. We explain that we seek good relations with all partners in the region to strengthen peace, security, and prosperity. We have pointed out that we are engaged in several initiatives with Pakistan that we are not undertaking with India.

Pakistan has given no indication that its cooperation with the United States in the War on Terror will in any way be affected by this Initiative with India. At the same time, we continue to build upon a strong counterterrorism foundation to further extend our relationship with Pakistan. Foreign Secretary Riaz Khan and a delegation will visit Washington in the last week of April to initiate the U.S.-Pakistan Strategic Dialogue. The parties will discuss a broad range of areas for cooperation, including in education, energy, economics, nonproliferation, and other issues.

Questions about President Musharraf's domestic standing are best answered by the Pakistani government.

U.S. ECONOMIC BENEFITS

Question:

So that the Committee may have a basis for comparison, what economic benefits have flowed to the United States since the implementation of the Sino-U.S. agreement on peaceful nuclear cooperation? Of those foreign reactors which have been built in China, how many are American and how many have been supplied by companies from other countries, such as Russia or France?

Response:

Since implementation of the U.S.-China Agreement for Peaceful Nuclear Cooperation in 1998, there have been more than twenty exports from the U.S. of nuclear reactor components to China as well as a number of nuclear technology transfers to China by U.S. companies. U.S. companies are also in a good position for selection as suppliers for future reactor projects in China. All of the non-U.S. reactors previously built in China and almost all that are currently under construction in China

were contracted for prior to the 1998 implementation of the U.S.-China Agreement. Therefore, U.S. companies did not have the opportunity to bid for those projects.

Question:

What progress is being made with India to sign international nuclear liability agreements?

Response:

At this point, India does not have nuclear liability legislation covering its facilities and is not party to any international liability convention. U.S. industry has encouraged Government of India officials to pass a nuclear liability law and also to join the Convention on Supplementary Compensation for Nuclear Damage (CSC). While Indian officials have seemed receptive to this suggestion, India, along with a number of nations, is unlikely to sign and ratify the CSC until the U.S. ratifies the CSC. As noted in recent administration testimony on the CSC, this liability convention was created in large part by the U.S. to accommodate its own unique legal system regarding nuclear liability.

Question:

Has the Administration done any analysis that would indicate how much of the cost of the first nuclear power plants ordered by India could be expected to go toward Indian materials, labor, and non-nuclear components?

Response:

No. Such an analysis would depend on the terms of commercial contracts that have not yet been written and that lie at least several years in the future. Consistent with longstanding U.S. practice, the draft agreement for peaceful nuclear cooperation contains no provisions of a commercial nature.

RESPONSES FROM THE HONORABLE CONDOLEEZZA RICE, THE SECRETARY OF STATE, U.S. DEPARTMENT OF STATE, TO QUESTIONS SUBMITTED FOR THE RECORD BY THE HONORABLE TOM LANTOS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Question:

As part of the July 18 Bush-Singh Joint Statement, India agreed to work with the United States to conclude a Fissile Material Cutoff Treaty (FMCT), which is a significant endorsement of the concept.

a. Has the Administration discussed in detail with Indian officials what form this support will take? Has the Administration shared ideas and negotiating positions with India on FMCT negotiations?

b. Does India agree with the U.S. position on verification?

c. Is India prepared to India cosponsor a resolution at the U.N. General Assembly endorsing the current U.S. approach?

Response:

As of April 5, 2005, negotiations on FMCT had not yet begun. The current task before the Administration is to get the Conference on Disarmament (CD) to agree to commence FMCT negotiations unencumbered by linkages to other issues. We have encouraged India to agree to support the commencement of negotiations in the CD, and they have indicated they will do so. Once FMCT negotiations have begun, we will work closely with India to bring those negotiations to a successful conclusion.

While Indian officials have made public statements in support of effective verification of an FMCT, we believe that India understands the importance of moving the CD forward into FMCT negotiations on an unencumbered basis. Exploring agreement or differences regarding various aspects of FMCT is best done in the context of formal negotiations.

There has been no bilateral consideration of endorsing the current U.S. approach through the mechanism of an UNGA resolution.

Question:

(a) When Prime Minister Singh declared in the July 18th Joint Statement that India supports the negotiation of a FMCT, implicit in that is that India is also prepared to sign and observe an FMCT. Does the U.S. have a commitment from India on this point?

(b) Also implicit is that India has decided or will decide upon a general date when it would be willing to observe such a treaty itself—when it has produced enough mili-

tary fissile material for its strategic needs. Has India made this decision? Has India figured out just how many nuclear weapons it needs?

Response:

(a) India has committed to work with the United States toward the conclusion of a multilateral FMCT. While it is implicit in such a commitment that India is also prepared to sign and observe an FMCT, we believe that India will explore agreement and differences with us and with other members of the Conference on Disarmament regarding various aspects of an FMCT, consistent with its July 18, 2005 commitment.

(b) We would be happy to discuss issues associated with India's nuclear weapons program in classified setting, as appropriate.

Question:

Last July, Prime Minister Singh declared that India would observe the same commitments and obligations as the United States and other nuclear weapon states that are parties to the NPT. The U.S., U.K., France and Russia have all declared an end to their production of fissile material for nuclear weapons, and China is rumored to have stopped production also. Why won't India agree to do the same?

Response:

The U.S., U.K., France and Russia have all declared an end to their production of fissile material for nuclear weapons; China has indicated to us privately that it has also suspended fissile material production for weapons purposes, but has not yet made the commitment publicly. Prime Minister Singh indicated that India would assume the "same responsibilities and practices . . . as other leading states with advanced nuclear technology," which in our view includes the United States, the other nuclear-weapon states and many other advanced industrial states without nuclear weapons. The Prime Minister's statement refers to the specific measures India committed to in the Joint Statement text. These include:

- Identifying and separating civilian and military nuclear facilities and programs in a phased manner and filing a declaration regarding its civilian facilities with the International Atomic Energy Agency (IAEA);
- Taking a decision to place voluntarily its civil nuclear facilities under IAEA safeguards;
- Signing and adhering to an Additional Protocol, which allows more extensive monitoring and inspections by the IAEA;
- Refraining from transfers of enrichment and reprocessing technologies to states that do not already possess them and supporting efforts to limit their spread;
- Working to conclude a multilateral Fissile Material Cutoff Treaty;
- Continuing its moratorium on nuclear testing; and
- Ensuring that the necessary steps have been taken to secure nuclear materials and technology through comprehensive export control legislation and through harmonization and unilateral adherence to the MTCR and NSG guidelines.

The curtailment of the production of fissile material for weapons was discussed as part of the Civil Nuclear Cooperation Initiative, but India maintained that it could not agree to a unilateral cap at this time. The U.S. has achieved an important objective by obtaining India's commitment to work toward the conclusion of a multilateral Fissile Material Cutoff Treaty (FMCT). Moreover, we remain willing to explore other intermediate options that might also serve such an objective. We also continue to call on all states that produce fissile material for weapons purposes to observe a voluntary production moratorium, as the United States has done for many years.

We believe it would be unwise to hold up the significant nonproliferation gains afforded by this Initiative in order to seek a fissile material cap that India indicates it cannot agree to absent a similar commitment by Pakistan and China.

Question:

In the July 18, 2005 Joint Statement, India agreed to continue its nuclear testing moratorium.

(a) If India tests again, will the United States halt nuclear exports as soon as possible?

(b) Under the Administration's proposed legislation, will a nuclear test nullify the entry into force of the US-India framework agreement for cooperation?

(c) Will the agreement for cooperation itself have as a condition that India not test again?

Response:

(a) If India detonates another nuclear explosive device, the United States would terminate nuclear exports to India immediately pursuant to section 129(1)(A) of the Atomic Energy Act (AEA), unless waived by the President pursuant to the waiver standard in current law. This waiver would be subject to congressional review for 60 continuous session days.

(b) If an Indian detonation occurred after entry into force of the agreement for peaceful nuclear cooperation, the agreement would remain in effect as a matter of international law. This is in the U.S. interest, since it would ensure that the non-proliferation conditions and controls provided for in the agreement would continue to be in effect. However, as noted above, U.S. exports of nuclear equipment and material to India pursuant to the agreement would be prohibited under section 129 of the AEA; already-exported items would remain subject to the terms of the bilateral agreement for peaceful nuclear cooperation; and any waiver of section 129 based on a Presidential determination under H.R. 4974 would no longer be effective.

(c) Section 123(a)(4) of the Atomic Energy Act requires that U.S. agreements for cooperation with non-nuclear weapon states (which India is, as defined by U.S. law) contain a provision giving the United States, in the event that India detonates a nuclear explosive device (whether or not using material, equipment, or components supplied by the United States), to cease further cooperation under the agreement and giving the United States the right to require the return of any material, equipment, or components transferred under the agreement and any special nuclear material (and any weapons-usable byproduct material) produced through their use.

Question:

Many have also charged that this agreement, at this time, will complicate our efforts to get the international community to increase political and economic pressure on Iran's nuclear activities. India is not Iran, clearly; but some believe that some states seeking an excuse not to pressure Iran may exploit the U.S. nuclear cooperation initiative with India. Have any states linked their dissatisfaction with the U.S. India policy to their dissatisfaction with the U.S. Iran policy?

Response:

There is no reason to believe, and we have seen no indication, that the Initiative with India will encourage the international community to view Iran's noncompliance more leniently. Iran's pursuit of a nuclear weapons capability is a national security concern to the United States and to many of its international partners. Our partners well understand the important differences between India and Iran and the reasons for treating these countries differently. This is why IAEA Director General ElBaradei, as well as states including France, the United Kingdom, Russia, and others—all our partners in the effort to prevent Iran from acquiring nuclear weapons—have welcomed the initiative with India.

Question:

Chinese press reports indicate that China is opposed to the Nuclear Suppliers Group (NSG) granting an exemption that would allow its 45-member states to engage in nuclear trade with India.

(a) If China blocks consensus in the NSG, will the United States go ahead?

(b) If China requests the same exemption for Pakistan, or a criteria-driven approach that would result in the same exemption for Pakistan, would the United States support that? Or would the U.S. itself block consensus on that basis?

(c) Is the State Department confident that China will not make such a demand, and if so, why?

(d) If the U.S. ultimately does not block consensus for an India/Pakistan exemption, then what about Israel (which would then be the only country in the world ostracized from peaceful nuclear cooperation by the NSG)?

Response:

(a) As we have indicated previously, we will not undercut the NSG.

(b) The U.S. will not support and does not desire such an exemption for Pakistan by the NSG. We expect that many in the international community would react similarly. We are proposing an NSG exception for India alone, based on India's unique circumstances. Our proposal to the NSG will convey this idea and will not seek to amend the NSG guidelines.

(c) We do not yet know how discussions in the NSG will ultimately turn out; consultations are ongoing. China has not proposed an exception for Pakistan; nor would

we support such an exception if proposed by any NSG Participating Government. We expect that many in the international community would react similarly, and do not believe that the 45 member states of the Nuclear Suppliers Group would reach consensus on such an accommodation.

(d) No. The U.S. will not support and does not desire an exemption for Pakistan or Israel by the NSG. The factors that make the Initiative appropriate in India's case are not present in either Pakistan or Israel. We are seeking an exemption for India only, based on India's unique circumstances.

Question:

a) Under the Administration's proposed legislation the President, if he wants to take advantage of the authorities to waive Sections 123 a. (2), 128, and 129 of the Atomic Energy Act, would not submit an agreement for cooperation until he determines that all seven actions have occurred. However, negotiating and implementing a safeguards agreement with the International Atomic Energy Agency (IAEA) could take a year or two. Moreover, the full application of safeguards to facilities specified in India's Implementation Document (provided to the Indian Parliament on March 7, 2006) will not be completed until 2014. Will the President submit the agreement for cooperation before safeguards are fully applied to all facilities specified by India in that Implementation document?

b) The proposed legislation stipulates that U.S. supply to India is "consistent with U.S. participation in the Nuclear Suppliers Group (NSG)." Could U.S. supply be consistent with U.S. participation in the NSG in the absence of NSG consensus on supplying India? Could it be consistent without the NSG formally granting an exemption for India?

Response:

(a) Under the Administration's proposed legislation, the President, if he wants to take advantage of the authorities to waive Sections 123 a. (2), 128, and 129 of the Atomic Energy Act, would not submit an agreement for cooperation until he determines that all seven actions have occurred. One of the actions that the President must determine has occurred in order to exempt the proposed agreement for cooperation with India from the requirement for full-scope safeguards in section 123(a)(2) of the AEA under the proposed legislation is entry into force of an agreement between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities as declared in India's plan to separate its civil and military facilities.

The exemption itself would necessarily precede conclusion of the agreement for cooperation and submittal to Congress. Due to India's planned phased implementation of its separation of civil and military nuclear programs, it is possible that the IAEA will not yet have applied safeguards at all of India's civil facilities pursuant to the India-IAEA safeguards agreement at the time that the President submits the U.S.-India agreement for peaceful nuclear cooperation to Congress for the statutory review. However, once the agreement for cooperation has been brought into force, all items supplied to India pursuant to it would require IAEA safeguards to be in effect, and thus U.S. cooperation would be limited exclusively to Indian civil nuclear facilities where IAEA safeguards were actually being applied. Finally, the Administration is seeking to have India sign an Additional Protocol with the IAEA prior to the initiation of civil nuclear cooperation, but does not expect an Additional Protocol to be signed prior to submitting the agreement for cooperation to the U.S. Congress.

(b) Consistent with NSG decisionmaking procedures, the U.S. proposal would require the consensus of all NSG Participating Governments to be implemented. This means that all the NSG Participating Governments will have to have made a decision to accommodate such cooperation with India notwithstanding the full-scope safeguards requirement in the NSG Guidelines. Such decisions are taken by consensus.

Question :

a) Why does the Administration's proposed legislation ask Congress to forego its right under the Atomic Energy Act to approve a nonconforming agreement as an exempted agreement? What benefits does the Administration see in such an approach?

b) Under the Administration's proposal, the U.S.—India agreement—which will have some unique elements not found in other, standard agreements—will go into effect automatically unless Congress passes a resolution of disapproval. If the agreement will be so good, why does the Administration fear asking a simple majority of both Chambers to approve it?

Response:

The Administration has engaged in extensive consultations with House and Senate Members over the past several months. We continue to seek early Congressional action on our proposal. We also are actively considering an alternative that allows Congress to approve the US-India peaceful nuclear cooperation agreement by affirmative vote.

In our view, the proposed legislation respects the fundamental premise of current law, namely that no agreement for peaceful nuclear cooperation that the President has exempted from a requirement of section 123(a) of the AEA should be brought into force unless Congress has effectively agreed that such exemption is warranted. If Congress passes the Administration's proposed legislation in its current form, Congress will in effect have approved exempting India from the requirement of section 123(a)(2)—full-scope IAEA safeguards—provided that the President is able to make the determinations required by the new legislation. The Administration believes that, if Congress is willing to legislate in this way at the front end of the process, then it is reasonable that an agreement satisfying *all other* requirements of section 123(a) should be reviewed by Congress in the same manner as an agreement meeting all section 123(a) requirements as prescribed by current law, since in effect it *will* satisfy all the section 123(a) requirements that Congress wishes it to satisfy.

Given the intrinsic difficulty of concurrently putting into place all the pieces necessary for U.S.-India peaceful nuclear cooperation—particularly, the U.S.-India agreement for nuclear cooperation, the India-IAEA Safeguards Agreement, and Nuclear Suppliers Group action to accommodate nuclear trade with India—we believe it is important that Congress participate as a partner early in the process.

Generally speaking, a Congressional review process that permits an agreement for cooperation satisfying all U.S. legal requirements to be brought into force absent enactment of legislation to disapprove it during a specified period of time has worked very well over several decades. It greatly facilitates the Executive branch's ability to negotiate and conclude agreements for cooperation with a reasonable expectation that agreements conforming to section 123(a) will be brought into force, while it preserves the right of Congress ultimately to disapprove any agreement, even one that meets all statutory requirements.

Question:

Did India's 1974 test of a so-called "peaceful nuclear device" use plutonium produced through the use of U.S.-supplied heavy water? If so, was that a violation of the assurances given us by India that such heavy water would only be used for peaceful purposes? If the Administration cannot or will not determine if U.S.-origin heavy water was used, would it have been a violation if it had been used?

Response:

The U.S. Government examined this matter around the time of India's 1974 test and was unable to reach a conclusive answer whether or not India had violated the 1956 contract for heavy water supply to the CIRUS reactor. Legally, there was a lack of mutual understanding between the U.S. and India on the scope of the language of the 1956 contract. Factually, there was uncertainty as to whether U.S.-supplied heavy water contributed to the production of the plutonium used for India's nuclear explosive device.

Regarding the legal question, while the United States does not accept the concept of a "peaceful nuclear explosion," India maintained in 1974 that its test was a peaceful nuclear explosion, rather than a nuclear weapon test. At the time, there was a disagreement between the United States and India on the scope of the language in the 1956 contract to supply heavy water to the CIRUS reactor. The U.S. made its view clear to India before the test; India responded that it had a different view. Agreements for peaceful nuclear cooperation subsequent to India's 1974 test have referred to "nuclear explosive device" without regard to the purported distinction between "peaceful" and "military" purposes.

As to the factual issue, even in 1976, just two years after the test, it was not possible to reach a definitive determination as to whether U.S.-supplied heavy water contributed to the production of the plutonium used in the 1974 detonation. U.S. experts concluded at that time that India was not dependent on the U.S. for the heavy water used in the CIRUS reactor during much of the period leading up to the 1974 test. Since the exact time at which the plutonium utilized in the test was produced remained undetermined, there was no basis for determining irrefutably that U.S.-supplied heavy water was present in the reactor when the plutonium was produced.

Question:

Does the U.S. know if India used any plutonium produced through the use of U.S.-origin material or equipment in its 1998 nuclear tests, or is currently part of its nuclear arsenal? If so, would that be a violation of previous peaceful-use assurances made by India to the U.S.?

Response:

The only nuclear-related equipment that the United States has supplied to India are two power reactors at Tarapur (i.e., Tarapur units 1 and 2). The only nuclear material that the United States has supplied to India is low enriched uranium fuel used in those reactors. Safeguards have been applied continuously on both reactors and fuel from the outset, dating back more than three decades. To the best of our knowledge, no reprocessing of U.S.-obligated spent fuel to separate plutonium has taken place, and no diversion of U.S.-obligated equipment, nuclear material, or non-nuclear material (e.g., heavy water) to a non-peaceful purpose has ever been reported by the IAEA. We therefore have no reason to conclude that U.S.-supplied equipment or U.S.-supplied nuclear material contributed to India's 1998 tests or constitutes a part of India's nuclear arsenal.

Question:

There has been a claim made by a nonproliferation expert that the U.S. agreement to supply nuclear fuel to India will be a violation of the United States' commitment under Article 1 of the NPT not to "in any way assist" another state in the manufacture of nuclear weapons. Provision of uranium, it has been alleged, will free up India's dwindling domestic uranium reserves to make more weapons. Why is this agreement not a violation of Article 1? Has a written legal analysis been done on this point?

Response:

The U.S.-India Initiative is about civil nuclear cooperation, not about India's strategic weapons program. Nothing that we are proposing would violate our NPT obligations, including the Article I obligation "not in any way to assist" India's nuclear weapons program. We remain fully committed to upholding all of our NPT obligations.

The NPT does not treat peaceful nuclear cooperation under safeguards as "assisting" a non-nuclear weapon state to manufacture nuclear weapons. Indeed, Article III(2) establishes the basis under which NPT parties may engage in nuclear cooperation with safeguarded facilities in countries that are not parties and do not have full-scope safeguards. The practice of the parties confirms this view, as a number of countries—the U.S., Canada, Russia, France, China—have provided fuel to India's safeguarded facilities, both before and after the NPT entered into force (and before and after India's 1974 detonation of a nuclear explosive device). Russia is also currently providing two light-water reactors for India's civil nuclear energy program.

In *The Nuclear Non-Proliferation Treaty* (the leading treatise on the negotiation of the NPT), Mohamed Shaker reached the same conclusion: "Almost any kind of international nuclear assistance is potentially useful to a nuclear-weapon program. However, the application of safeguards to all peaceful nuclear assistance to non-nuclear weapon States, as required by Article III, provides a means to establish and clarify the peaceful purposes of most international nuclear assistance."

This conclusion is also supported by the practice of the parties to the NPT. The U.S. and Canada engaged in nuclear cooperation with India before and after the NPT entered into force. The supply of fuel under facility-specific (INFCIRC/66) safeguards agreements was understood to satisfy our obligations under the NPT. Even after India's 1974 detonation, fuel was provided to India's safeguarded Tarapur reactors by the United States, France, and Russia. Such fuel supply was understood to be consistent with the NPT. The Nuclear Suppliers Group did not make the political decision to adopt full-scope safeguards as a condition of supply until 1992.

The argument made by some critics that foreign fuel supply could allow India to devote its domestic uranium substantially or even exclusively to its weapons program, should India so desire, does not change this legal conclusion. As previously noted, nothing in the NPT, its negotiating history, or the practice of the parties supports the notion that fuel supply to safeguarded reactors for peaceful purposes could be construed as "assisting in the manufacture of nuclear weapons" for purposes of Article I. Nuclear material and equipment exported by the U.S. would not be involved in any stage of the process of manufacturing nuclear weapons.

In essence, nuclear cooperation under safeguards does not fundamentally differ from other forms of energy cooperation (e.g., oil supply, clean coal technology, alternative fuels). All such energy assistance would arguably relieve India of its reliance

on domestic uranium for energy production. Yet such energy assistance clearly could not be viewed as assisting India in the manufacture of nuclear weapons.

Under the U.S.-India Civil Nuclear Cooperation Initiative, India has committed to identifying and separating its civil and military nuclear facilities and programs, and to placing its civil facilities under IAEA safeguards, including monitoring and inspections. It also will sign and implement an Additional Protocol, which provides for broadened IAEA access to facilities and information regarding nuclear-related activities. These steps are designed to detect, with a view to preventing, diversion of any civil nuclear cooperation to India's military program.

The Initiative does not cap Indian nuclear weapons production, but nothing to be provided to India under the Initiative will be used to enhance India's military capability or add to its military stockpile. With or without this Initiative, India is capable of maintaining its existing nuclear arsenal. It has a functioning fuel cycle and demonstrated competence with nuclear technologies.

Based on our discussions with the Indian government, we do not believe that India plans to increase significantly its nuclear weapon production. India says it seeks to maintain a "credible minimum deterrent." Relative to its current capabilities, India seeks a much larger civil nuclear energy program to meet its real and growing energy needs. Moreover, a successfully-implemented Civil Nuclear Cooperation Initiative adds considerable incentives for India to grow its civil nuclear energy sector, since international cooperation will be allowed only with safeguarded facilities.

Question:

Secretary Rice wrote in an op-ed in the Washington Post that if the U.S. gets just two nuclear power reactor contracts from India as a result of this deal, thousands of jobs would be created. Is there anything in the deal, or are there any bilateral assurances from India, that would ensure that the U.S., rather than France, Russia or others, will get some reactor deals? Will the agreement be worth it if India buys nothing of consequence from U.S. nuclear firms? Should the Congress make a condition in the proposed legislation that India must buy at least two reactors from the United States?

Response:

The Administration believes that a U.S.-India agreement for peaceful nuclear cooperation will have nonproliferation value even if it does not lead to the sale of significant civil nuclear commodities to India by U.S. firms. India is not obligated to purchase equipment, technologies, or material from any potential future supplier state. The Administration believes that U.S. industry should be eligible to compete on a level playing field and, as such, opposes legislation requiring India to buy a minimum number of reactors from the United States as a condition for the U.S. concluding an agreement for peaceful nuclear cooperation with India.

In general, an agreement for cooperation provides a necessary legal *framework* of nonproliferation conditions and controls, but it does not *require* cooperation on the part of *either* Party or *mandate* the transfer or procurement of any nuclear-related items. This is the normal U.S. approach to civil nuclear commerce, and in the Administration's view it should remain our approach with respect to India.

RESPONSES FROM THE HONORABLE CONDOLEEZZA RICE, THE SECRETARY OF STATE,
U.S. DEPARTMENT OF STATE TO QUESTIONS SUBMITTED FOR THE RECORD BY THE
HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE
OF IOWA

Question:

Under your proposed agreement with India, it will be by most estimates a year before the Washington negotiates a nuclear cooperation agreement with Delhi, and perhaps at least two years before India completes its safeguards agreement with the IAEA. Why should this Congress even consider authorizing the proposed agreement to move forward until we see details of the cooperation and unprecedented "India specific" safeguards agreements?

Response:

We believe it is important that Congress participate as a partner early in the process. There are a number of important elements proceeding in parallel: proposed revisions to U.S. domestic law, negotiation of the U.S.-India agreement for peaceful nuclear cooperation, negotiation of the India-IAEA Safeguards Agreement, and Nuclear Suppliers Group action to accommodate nuclear trade with India. In each case, it is important to know whether Congress, in principle, supports the Initiative. Ab-

sent such an understanding, it will prove difficult to make sustainable progress with the IAEA, with the NSG, or with the bilateral peaceful nuclear cooperation agreement.

We have proposed legislation to facilitate approval of a U.S.-India agreement for peaceful nuclear cooperation under the Atomic Energy Act (AEA) and to facilitate waiver of certain other provisions of the AEA. As the Administration's proposed legislation is currently drafted, the President would have to make a determination about seven factors regarding India and the proposed cooperation in order for the President to make the necessary exemption and waivers. These factors include India's completion of a safeguards agreement with the IAEA. At the time of the Presidential determination and upon review of a completed U.S.-India Peaceful Nuclear Cooperation Agreement, Congress can assess India's safeguards and progress on implementation of other Indian commitments. In this context, Congress would retain the authority to disapprove the agreement.

Question:

Earlier today, as a reason to pass the Administration's legislation to remove restrictions in the Atomic Energy Act that would affect India, you told the Senate Foreign Relations Committee that India should be treated like every other country for nuclear proliferation. All other states that receive the same routine Congressional consideration have all their nuclear activities under safeguards and do not have nuclear weapons; and the nuclear weapons states we have agreements with, such as China, not only accept the obligations of the NPT but have stopped producing fissile material for nuclear weapons. India, under your approach, would get preferential treatment, not the same treatment and obligations as everyone else. Is this not true?

Response:

This Initiative would provide for civil nuclear cooperation with India under the same basic terms as non-nuclear weapon states (as defined in U.S. law by reference to the NPT), with limited exceptions that recognize India's unique status and based on India's record and its commitments.

As we have explained, India is a unique case. It faces real and growing energy needs; it has an advanced civil nuclear infrastructure and program; it has a solid record in refraining from nuclear exports; and it has made enhanced nonproliferation commitments under the July 18 Joint Statement that, when implemented, will more closely align it with the global nonproliferation mainstream than at any previous time. This Initiative seeks to address India's rising energy needs and to help end India's international isolation with respect to access to civil nuclear energy in exchange for substantial enhancements to its nonproliferation posture.

Many of India's nonproliferation commitments exceed the requirements of the Nuclear Non-Proliferation Treaty (NPT): the commitment not to transfer enrichment and reprocessing technology to countries that do not already have these capabilities; the commitment to sign and adhere to an Additional Protocol; the commitment to harmonize with and adhere to NSG and MTCR Guidelines; and the commitment to work toward a multilateral FMCT.

Question:

It is bedrock American policy to discourage the spread of fissile material and the development of nuclear weapons, is it not? How can you be sure that this agreement, which places no constraints on the Indian weapons program and arguably indirectly assists it, will not stimulate new strategic uncertainties in South Asia and neighboring regions—causing countries such as Pakistan and China to develop more nuclear weapons, better warheads and delivery systems, as well as perhaps even conduct a nuclear test?

Response:

It is U.S. policy to discourage the spread of nuclear weapons technology, and we continue to press for strategic restraint in South Asia. We continue our diplomatic efforts with both India and Pakistan in that regard.

The U.S.-India Civil Nuclear Cooperation Initiative is not about nuclear weapons. The United States does not and will not support India's nuclear weapons program. Neither do we recognize India as a nuclear weapon state, or seek to renegotiate the nuclear Non-Proliferation Treaty (NPT). Nor do we have any intention of undercutting the Nuclear Suppliers Group (NSG), which is an important nonproliferation tool.

The Initiative does not cap Indian nuclear weapons production, but nothing to be provided to India under the Initiative will be used to enhance India's military capability or add to its military stockpile. We remain cognizant of our Article I NPT obligation to not "in any way" assist India's program, and will continue to uphold that

obligation. Nor do we believe that civil nuclear cooperation will contribute to or accelerate a regional arms race. Indeed, by bringing nearly two-thirds of India's current and planned thermal power reactors under safeguards (and all its future civil breeder and civil thermal power reactors), the Initiative in effect restricts certain Indian facilities to only producing civil energy—facilities that could otherwise be used for nuclear weapons-related purposes. Without this Initiative, India could use all of its unsafeguarded reactors—current and planned—for military purposes.

Any potential for an Indo-Pakistani or Sino-Indian arms competition will be determined mainly by their respective bilateral relations, rather than by civil nuclear cooperation with India. Additionally, we have made it clear to the Indian Government that nuclear cooperation with the U.S. would cease if India detonated a nuclear explosive device, giving India a clear economic and energy incentive not to test. As Under Secretary Joseph testified to the Senate Foreign Relations Committee in November 2005: "Since to date Pakistan has test-exploded nuclear weapons only in response to Indian nuclear tests, this commitment will help diminish the prospects for future nuclear testing in South Asia."

Both India and Pakistan have publicly and privately indicated their unilateral commitments to pursue what they term "credible minimum" deterrents. It is also worth noting that their bilateral relationship appears to be improving. Indian Prime Minister Singh recently offered a treaty of peace, security, and friendship to Pakistan. Pakistan's Foreign Office immediately welcomed the offer as a "positive acknowledgement" of the need to move forward on Kashmir and other bilateral issues, and said that both countries needed to take "bold steps to resolve the outstanding issues." As part of their Composite Dialogue, India and Pakistan are discussing an agreement concerning prevention of nuclear accidents and other nuclear confidence building measures.

India has a clear strategic interest in maintaining good relations with China. The United States encourages these good relations as important to the continued stability and prosperity of Asia.

Question:

Has the Administration held any discussions with China, India, or Pakistan about nuclear deterrence, doctrine and force posture with a view towards encouraging strategic restraint among them? If not, why not?

Response:

This Administration has held such discussions with both India and Pakistan, as did the Clinton administration. We continue to engage both India and Pakistan actively to encourage improvements in their bilateral relationship and to exercise nuclear and missile restraint. In our dialogue with China we have often discussed China's military and strategic objectives as well as force deployment concerns, and also have increasingly discussed issues relating to South Asia.

U.S. diplomatic efforts are active in this regard, particularly with India and Pakistan who also have their own bilateral confidence-building dialogue. India and China have also begun a bilateral strategic dialogue.

Question:

Is it the position of the Administration that India's nuclear weapons program is, or should be considered, a "strategic asset" to the United States?

Response:

That is not the Administration's position. The U.S.-India Civil Nuclear Cooperation Initiative neither implicitly nor explicitly endorses India's nuclear weapons program. The United States has been quite clear on this point: we do not recognize India as a nuclear weapon state. While India developed nuclear weapons outside the NPT context and we must deal with this fact in a realistic, pragmatic manner, we do not recognize India as a nuclear weapon state or seek to legitimize India's nuclear weapons program.

The 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT) defines a nuclear weapon state as "one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967." India does not meet this definition, and we do not seek to amend the Treaty to provide otherwise. U.S. law adopts the NPT definition, so India is considered a non-nuclear weapon state for purposes of U.S. law.

Nor does the Initiative convey *de facto* nuclear weapon state status on India. For example, India's separation plan confirms that India will accept IAEA safeguards in perpetuity on all its civil nuclear facilities, unlike the five NPT nuclear weapon state parties that have no safeguards obligations.

Question:

Is it the position of the Administration that India needs to modernize its nuclear weapons program and their means of delivery in order to keep pace with the modernization of China's strategic weapons program? Please provide a classified response if necessary.

Response:

We would be glad to address specific issues relating to the Indian and Chinese nuclear weapons programs in an appropriate classified setting.

Contrary to the premise of the question, we have consistently urged India to exercise restraint in its nuclear weapons program. For example, we have asked both India and Pakistan to refrain from deploying nuclear-capable missiles, to store warheads separately from missiles, to refrain from further testing, to stop production of fissile material for weapons purposes, and to implement confidence-building and risk-reduction measures.

Question:

Will India's commitment to "adhere" to the guidelines of the Missile Technology Control Regime mean that it will be considered an "adherent" for purposes of section 73 of the Arms Export Control Act, such that U.S. missile sanctions would generally not apply in the future to India or to countries which sell missile technology to India?

Response:

India would not be considered an "MTCR adherent" for purposes of Section 73 of the Arms Export Control Act (also referred to as the missile sanctions law). Rather, as part of this Initiative, India has committed to unilaterally adhere to the Missile Technology Control Regime (MTCR). The missile sanctions law would generally still apply to a "unilateral adherent" to the MTCR.

Unilateral adherence to the MTCR means that a country makes a unilateral political commitment to abide by the Guidelines and Annex of the MTCR. In particular, an MTCR unilateral adherent commits to control exports of missile-related equipment and technology according to the MTCR Guidelines, including any subsequent changes to the MTCR Guidelines and Annex. To meet this commitment, MTCR unilateral adherent countries would need to have in place laws and regulations that would permit them to control the export of MTCR Annex equipment and technology consistent with the MTCR Guidelines.

An "MTCR Adherent," as defined in section 74 of the Arms Export Control Act, is a country that "participates" in the MTCR or that, "pursuant to an international understanding to which the United States is a party, controls MTCR equipment and technology in accordance with the criteria and standards set forth in the MTCR." India's "unilateral adherence" to the MTCR would not meet this requirement.

RESPONSES FROM THE HONORABLE CONDOLEEZZA RICE, THE SECRETARY OF STATE,
U.S. DEPARTMENT OF STATE TO QUESTIONS SUBMITTED FOR THE RECORD BY THE
HONORABLE ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF FLORIDA

Question:

No uranium enrichment or reprocessing facilities are listed in the separation plan. Why not?

Response:

The separation plan is an Indian document, and the criteria by which India identified its civil facilities are described by India in the plan. The plan will place nearly two thirds of India's existing and planned power reactors under IAEA safeguards, and we believe the plan as proposed is credible. India's separation plan would also cover certain upstream and downstream facilities that process material for its safeguarded reactors. In particular, reprocessing facilities would be safeguarded in "campaign mode," while they process safeguarded material from declared civil facilities.

Question:

Does this mean that these facilities will not be subject to full-scope safeguards and inspections?

Response:

The term "full scope safeguards" is usually applied to an NPT-based safeguards agreement that covers all nuclear material and facilities in a non-nuclear weapons

state. The Indian safeguards agreement will not be “full scope,” as India is not an NPT signatory and some of India’s nuclear activity will not be subject to safeguards. India has indicated that its reprocessing facilities will be safeguarded in “campaign mode,” while those plants are processing safeguarded material from declared civil facilities. But the reprocessing facilities themselves would not be declared civil and would not be subject to permanent safeguards.

Question:

Have we requested or received any assurances regarding re-exports and strengthening of India’s export control system as a pre-condition?

Response:

The Next Steps in Strategic Partnership (NSSP) specified such assurances as pre-conditions to U.S. deliverables under the NSSP, which was completed in July 2005. India took tangible steps to strengthen its export controls as part of NSSP, including giving the U.S. written assurances regarding no re-export of sensitive U.S. technologies. Also, as we understand India’s WMD law, export from India of foreign-origin dual-use equipment exported to India, if of types covered by India’s own control list and catch-all controls, would be subject to the same requirements that apply to export of Indian-origin goods.

Question:

What mechanisms and safeguards are we requiring as part of the agreement to ensure that, regardless of a change of government in India, this agreement does not, inadvertently, facilitate secondary proliferation?

Response:

India has a solid record with respect to nuclear-related exports. The proposed legislation, H.R. 4974, provides for the President to make 7 determinations in order to waive the Atomic Energy Act requirement of full-scope safeguards, including that “India is ensuring that the necessary steps are being taken to secure nuclear materials and technology through the application of comprehensive export control legislation and regulations, and through harmonization and unilateral adherence to Missile Technology Control Regime (MTCR) Annex and Guidelines and Nuclear Suppliers Group (NSG) guidelines.” Beyond our continued engagement on export controls, it is important to note that the safeguards required by this Initiative are designed to detect, with a view to preventing, diversion of any civil nuclear cooperation to India’s military program or to other non-authorized purposes.

ADDITIONAL NONPROLIFERATION MEASURES

Question:

What is the status of potential Indian membership in the Proliferation Security Initiative (PSI)? What reasons has India given for not becoming a PSI participant?

Response:

India has indicated that its participation remains under consideration.

India committed in 2005 to participate in the Proliferation Security Initiative, but only if it were invited to join the Core Group of PSI participants that had developed and agreed to the PSI Statement of Principles. In the summer of 2005, the United States and its partners in the Core Group agreed that while the Core Group had served an important function in the process of starting up the PSI, it was no longer necessary and so was disbanded.

More recently, India has linked its decision on PSI participation to its concerns with recently agreed amendments to the Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention).

Endorsement of the PSI Statement of Interdiction Principles is a political commitment. Therefore, the United States does not accept India’s linkage of the PSI to the SUA Convention, or to the Protocol with the recent amendments. The SUA, which was negotiated under the auspices of the IMO, is open to signature by states prepared to undertake its legally binding obligations, as is the recent protocol.

Question:

Does the Administration believe that India will soon take steps to harmonize its national control lists with those of the Australia Group and the Wassenaar Arrangement? Why or why not?

Response:

We have discussed with India the importance of India harmonizing its control lists to those of the Australia Group and the Wassenaar Arrangement. To date, we

have not received an official announcement by the Indian government of a decision to harmonize its control lists with either regime. We will inform Congress of any developments concerning India's harmonization or unilateral adherence as they occur.

With respect to Australia Group, India has long argued that it has sufficient controls since its national export control list—the Special Chemicals, Organisms, Materials, Equipment, and Technologies (SCOMET) List—is in line with the standards of the Chemical Weapons Convention (CWC), to which India is a party. We have discussed with India the importance of controlling the full range of chemicals, agents, toxins, and equipment in line with the Australia Group.

India's 2005 "Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act" (WMD Act) and subsequent implementing regulations greatly strengthen India's export control capabilities. On the whole, the Act and implementing regulations bring Indian export controls closer in line with widely accepted export control standards for preventing WMD proliferation and are consistent with the kinds of measures that UNSCR 1540 requires states to implement.

We continue to discuss with the Indian government the steps for bringing its export control standards and practices fully in line with those of the international regimes, including issues relating to implementation and enforcement. We also continue to engage with India in cooperative programs under the Export Control and Related Border Security (EXBS) program.

Question:

Section 129 of the Atomic Energy Act requires an immediate cut-off of nuclear exports to a non-nuclear weapon state that have tested a nuclear device after 1978, among other things. However, the President can waive if he determines that, among other things, "cessation of such exports would . . . otherwise jeopardize the common defense and security."

Is the Administration requiring India's full cooperation with the Proliferation Security Initiative as part of building common defense and security?

To what extent would the Administration rely upon the proposed geostrategic benefits of the nuclear proposal, including the argument that a strengthened relationship with India is needed to counterbalance China, to justify a waiver of Section 129?

Response:

Under the Administration's proposed legislation, if the President made the determination in subsection 1(b), the operation of certain requirements of the Atomic Energy Act would be modified with respect to U.S.-India civil nuclear cooperation. However, subsection 1(d) provides that the President's determination "shall not be effective" in modifying the operation of these legal requirements if India is found to have detonated a nuclear explosive device after enactment of the legislation. In other words, if India detonated a device after enactment of the legislation, the Presidential determination under that law would no longer be effective. Peaceful nuclear cooperation with India would be subject to the prohibition in section 129 of the Atomic Energy Act. The Administration does not foresee any geostrategic benefit that would justify waiver of AEA section 129 and continued nuclear exports to India if India were to test a nuclear device.

Regarding PSI, India has stated that its participation remains under consideration. It is not a requirement under the Civil Nuclear Cooperation Initiative, however. Given its geographic location along several key routes for proliferation trafficking and its significant operational capabilities in the region, India's participation in PSI would be strategically advantageous for the United States. We continue to discuss this issue with India and encourage India's participation.

