

Upton	Wasserman	Welch (VT)
Van Hollen	Schultz	Wilson (OH)
Velázquez	Waters	Woolsey
Visclosky	Watson	Wu
Walsh (NY)	Watt	Yarmuth
Walz (MN)	Waxman	Young (AK)
	Weiner	

**NAYS—158**

Aderholt	Fossella	Neugebauer
Akin	Fox	Nunes
Alexander	Franks (AZ)	Paul
Bachmann	Frelinghuysen	Pearce
Bachus	Gallegly	Pence
Barrett (SC)	Garrett (NJ)	Peterson (MN)
Bartlett (MD)	Gingrey	Petri
Barton (TX)	Gohmert	Pitts
Berry	Goode	Poe
Biggart	Goodlatte	Price (GA)
Billbray	Granger	Pryce (OH)
Bilirakis	Hastings (WA)	Putnam
Bishop (UT)	Hensarling	Radanovich
Blackburn	Herger	Ramstad
Blunt	Herseth Sandlin	Regula
Boehner	Hobson	Rehberg
Bonner	Hoekstra	Reynolds
Boozman	Hunter	Rogers (KY)
Boustany	Inglis (SC)	Rohrabacher
Boyd (FL)	Issa	Roskam
Brady (TX)	Johnson (IL)	Royce
Broun (GA)	Johnson, Sam	Jordan
Brown (SC)	Jordan	Keller
Burgess	Keller	King (IA)
Burton (IN)	King (IA)	Kingston
Buyer	Kingston	Kirk
Calvert	Kirk	Kline (MN)
Camp (MI)	Kline (MN)	Lamborn
Campbell (CA)	Lamborn	Lampson
Cannon	Lampson	Latham
Cantor	Latham	Latta
Carter	Latta	Lewis (CA)
Chabot	Lewis (CA)	Lewis (KY)
Coble	Lewis (KY)	Linder
Cole (OK)	Linder	Lucas
Conaway	Lucas	Lungren, Daniel
Cooper	Lungren, Daniel	E.
Crenshaw	E.	Mack
Culberson	Mack	Manzullo
Davis (KY)	Manzullo	Marchant
Davis, David	Marchant	Matheson
Davis, Tom	Matheson	McCarthy (CA)
Deal (GA)	McCarthy (CA)	McCaul (TX)
Doolittle	McCaul (TX)	McCrery
Drake	McCrery	McHenry
Dreier	McHenry	McKeon
Duncan	McKeon	McMorris
Ehlers	McMorris	Rodgers
Everett	Rodgers	Mica
Fallin	Mica	Miller (FL)
Ferguson	Miller (FL)	Miller, Gary
Flake	Miller, Gary	Moran (KS)
Forbes	Moran (KS)	Myrick
Fortenberry	Myrick	

**NOT VOTING—12**

Costa	Peterson (PA)	Tierney
Cubin	Pickering	Weller
Feeney	Saxton	Wexler
LaHood	Thompson (MS)	Whitfield (KY)

**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore (during the vote). Members should be aware that the display is inoperative. The Chair would encourage all Members to verify their votes at any of the 46 electronic voting stations.

□ 1841

Mr. EHLERS changed his vote from “yea” to “nay.”

Messrs. SPRATT, HALL of Texas, BOREN, and Mrs. BONO MACK changed their vote from “nay” to “yea.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

**COMMUNICATION FROM THE HONORABLE JOHN A. BOEHNER, RE-PUBLICAN LEADER**

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

HOUSE OF REPRESENTATIVES,  
*Washington DC, September 25, 2008.*

Hon. NANCY PELOSI,  
*Speaker, U.S. Capitol, Washington, DC.*

DEAR SPEAKER PELOSI: Pursuant to Section 333(a)(2) of the Consolidated Natural Resources Act of 2008 (P.L. 110-229), I am pleased to appoint Dr. Aida Levitan, Ph.D. of Key Biscayne, Florida to the Commission to Study the Potential Creation of a National Museum of the American Latino.

Dr. Levitan has expressed interest in serving in this capacity and I am pleased to fulfill the request.

Sincerely,

JOHN A. BOEHNER,  
*Republican Leader.*

□ 1845

**COMMUNICATION FROM THE HONORABLE JOHN A. BOEHNER, RE-PUBLICAN LEADER**

The SPEAKER pro tempore laid before the House the following communication from the Honorable JOHN A. BOEHNER, Republican Leader:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
SEPTEMBER 25, 2008.

Hon. NANCY PELOSI,  
*Speaker, Washington, DC.*

DEAR SPEAKER PELOSI: Pursuant to Section 4(a) of the Commission on the Abolition of the Transatlantic Slave Trade Act (P.L. 110-183), I am pleased to appoint Mr. Eric Sheppard of Carrollton, Virginia to the Commission on the Abolition of the Transatlantic Slave Trade.

Mr. Sheppard has expressed interest in serving in this capacity and I am pleased to fulfill his request.

Sincerely,

JOHN A. BOEMER,  
*Republican Leader.*

**COMMUNICATION FROM CONSTITUENT LIAISON, THE HONORABLE STENY HOYER, MEMBER OF CONGRESS**

The SPEAKER pro tempore laid before the House the following communication from Jamie Grove, Constituent Liaison, the Honorable Steny Hoyer, Member of Congress:

SEPTEMBER 15, 2008.

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

DEAR MADAM SPEAKER: This is to notify you formally, pursuant to Rule VIII of the Rules of the House of Representatives, that I have been served with a subpoena, issued in the District Court of Charles County Maryland, for testimony in a criminal case.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

JAMIE GROVE,  
*Constituent Liaison.*

**UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT**

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7081) to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 7081

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Definitions.

**TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY**

- Sec. 101. Approval of Agreement.
- Sec. 102. Declarations of policy; certification requirement; rule of construction.
- Sec. 103. Additional Protocol between India and the IAEA.
- Sec. 104. Implementation of Safeguards Agreement between India and the IAEA.
- Sec. 105. Modified reporting to Congress.

**TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION**

- Sec. 201. Procedures regarding a subsequent arrangement on reprocessing.
- Sec. 202. Initiatives and negotiations relating to agreements for peaceful nuclear cooperation.
- Sec. 203. Actions required for resumption of peaceful nuclear cooperation.
- Sec. 204. United States Government policy at the Nuclear Suppliers Group to strengthen the international nuclear nonproliferation regime.
- Sec. 205. Conforming amendments.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term “United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy” or “Agreement” means the Agreement for Cooperation Between the Government of the United States of America and the Government of India

Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

**TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY**

**SEC. 101. APPROVAL OF AGREEMENT.**

(a) IN GENERAL.—Notwithstanding the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (b) and (d)), Congress hereby approves the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, subject to subsection (b).

(b) APPLICABILITY OF ATOMIC ENERGY ACT OF 1954, HYDE ACT, AND OTHER PROVISIONS OF LAW.—The Agreement shall be subject to the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8001 et seq; Public Law 109–401), and any other applicable United States law as if the Agreement had been approved pursuant to the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954.

(c) SUNSET OF EXEMPTION AUTHORITY UNDER HYDE ACT.—Section 104(f) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8003(f)) is amended by striking “the enactment of” and all that follows through “agreement” and inserting “the date of the enactment of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act”.

**SEC. 102. DECLARATIONS OF POLICY; CERTIFICATION REQUIREMENT; RULE OF CONSTRUCTION.**

(a) DECLARATIONS OF POLICY RELATING TO MEANING AND LEGAL EFFECT OF AGREEMENT.—Congress declares that it is the understanding of the United States that the provisions of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy have the meanings conveyed in the authoritative representations provided by the President and his representatives to the Congress and its committees prior to September 20, 2008, regarding the meaning and legal effect of the Agreement.

(b) DECLARATIONS OF POLICY RELATING TO TRANSFER OF NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY TO INDIA.—Congress makes the following declarations of policy:

(1) Pursuant to section 103(a)(6) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(a)(6)), in the event that nuclear transfers to India are suspended or terminated pursuant to title I of such Act (22 U.S.C. 8001 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law, it is the policy of the United States to seek to prevent the transfer to India of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group (NSG) or from any other source.

(2) Pursuant to section 103(b)(10) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(b)(10)), any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

(c) CERTIFICATION REQUIREMENT.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to Congress that entry into force and implementation of the Agreement pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the “Nuclear Non-Proliferation Treaty”), not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.

(d) RULE OF CONSTRUCTION.—Nothing in the Agreement shall be construed to supersede the legal requirements of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 or the Atomic Energy Act of 1954.

**SEC. 103. ADDITIONAL PROTOCOL BETWEEN INDIA AND THE IAEA.**

Congress urges the Government of India to sign and adhere to an Additional Protocol with the International Atomic Energy Agency (IAEA), consistent with IAEA principles, practices, and policies, at the earliest possible date.

**SEC. 104. IMPLEMENTATION OF SAFEGUARDS AGREEMENT BETWEEN INDIA AND THE IAEA.**

Licenses may be issued by the Nuclear Regulatory Commission for transfers pursuant to the Agreement only after the President determines and certifies to Congress that—

(1) the Agreement Between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the “Safeguards Agreement”), has entered into force; and

(2) the Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan.

**SEC. 105. MODIFIED REPORTING TO CONGRESS.**

(a) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—Subsection (g)(1) of section 104 of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8003) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

“(B) any material inconsistencies between the content or timeliness of notifications by the Government of India pursuant to paragraph 14(a) of the Safeguards Agreement and the facilities and schedule described in paragraph (14) of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan;”

(b) IMPLEMENTATION AND COMPLIANCE REPORT.—Subsection (g)(2) of such section is amended—

(1) in subparagraph (K)(iv), by striking “and” at the end;

(2) in subparagraph (L), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(M) with respect to the United States-India Agreement for Cooperation on Peaceful

Uses of Nuclear Energy (hereinafter in this subparagraph referred to as the ‘Agreement’) approved under section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act—

“(i) a listing of—

“(I) all provision of sensitive nuclear technology to India, and other such information as may be so designated by the United States or India under Article 1(Q); and

“(II) all facilities in India notified pursuant to Article 7(1) of the Agreement;

“(ii) a description of—

“(I) any agreed safeguards or any other form of verification for by-product material decided by mutual agreement pursuant to the terms of Article 1(A) of the Agreement;

“(II) research and development undertaken in such areas as may be agreed between the United States and India as detailed in Article 2(2)(a.) of the Agreement;

“(III) the civil nuclear cooperation activities undertaken under Article 2(2)(d.) of the Agreement;

“(IV) any United States efforts to help India develop a strategic reserve of nuclear fuel as called for in Article 2(2)(e.) of the Agreement;

“(V) any United States efforts to fulfill political commitments made in Article 5(6) of the Agreement;

“(VI) any negotiations that have occurred or are ongoing under Article 6(iii.) of the Agreement; and

“(VII) any transfers beyond the territorial jurisdiction of India pursuant to Article 7(2) of the Agreement, including a listing of the receiving country of each such transfer;

“(iii) an analysis of—

“(I) any instances in which the United States or India requested consultations arising from concerns over compliance with the provisions of Article 7(1) of the Agreement, and the results of such consultations; and

“(II) any matters not otherwise identified in this report that have become the subject of consultations pursuant to Article 13(2) of the Agreement, and a statement as to whether such matters were resolved by the end of the reporting period; and

“(iv) a statement as to whether—

“(I) any consultations are expected to occur under Article 16(5) of the Agreement; and

“(II) any enrichment is being carried out pursuant to Article 6 of the Agreement.”

**TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION**

**SEC. 201. PROCEDURES REGARDING A SUBSEQUENT ARRANGEMENT ON REPROCESSING.**

(a) IN GENERAL.—Notwithstanding section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160), no proposed subsequent arrangement concerning arrangements and procedures regarding reprocessing or other alteration in form or content, as provided for in Article 6 of the Agreement, shall take effect until the requirements specified in subsection (b) are met.

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

(1) The President transmits to the appropriate congressional committees a report containing—

(A) the reasons for entering into such proposed subsequent arrangement;

(B) a detailed description, including the text, of such proposed subsequent arrangement; and

(C) a certification that the United States will pursue efforts to ensure that any other nation that permits India to reprocess or otherwise alter in form or content nuclear material that the nation has transferred to

India or nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment that it has transferred to India requires India to do so under similar arrangements and procedures.

(2) A period of 30 days of continuous session (as defined by section 130 g.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (g)(2)) has elapsed after transmittal of the report required under paragraph (1).

(c) RESOLUTION OF DISAPPROVAL.—Notwithstanding the requirements in subsection (b) having been met, a subsequent arrangement referred to in subsection (a) shall not become effective if during the time specified in subsection (b)(2), Congress adopts, and there is enacted, a joint resolution stating in substance that Congress does not favor such subsequent arrangement. Any such resolution shall be considered pursuant to the procedures set forth in section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (i)), as amended by section 205 of this Act.

**SEC. 202. INITIATIVES AND NEGOTIATIONS RELATING TO AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION.**

Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended by adding at the end the following:

“e. The President shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation pursuant to this section (except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d., or an amendment thereto).”

**SEC. 203. ACTIONS REQUIRED FOR RESUMPTION OF PEACEFUL NUCLEAR COOPERATION.**

Section 129 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2158 (a)) is amended by striking “Congress adopts a concurrent resolution” and inserting “Congress adopts, and there is enacted, a joint resolution”.

**SEC. 204. UNITED STATES GOVERNMENT POLICY AT THE NUCLEAR SUPPLIERS GROUP TO STRENGTHEN THE INTERNATIONAL NUCLEAR NON-PROLIFERATION REGIME.**

(a) CERTIFICATION.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to the appropriate congressional committees that it is the policy of the United States to work with members of the Nuclear Suppliers Group (NSG), individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

(b) PEACEFUL USE ASSURANCES FOR CERTAIN BY-PRODUCT MATERIAL.—The President shall seek to achieve, by the earliest possible date, either within the NSG or with relevant NSG Participating Governments, the adoption of principles, reporting, and exchanges of information as may be appropriate to assure peaceful use and accounting of by-product material in a manner that is substantially equivalent to the relevant provisions of the Agreement.

(c) REPORT.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the appropriate congressional committees a report on efforts by the United States pursuant to subsections (a) and (b).

(2) TERMINATION.—The requirement to transmit the report under paragraph (1) terminates on the date on which the President transmits a report pursuant to such paragraph stating that the objectives in subsections (a) and (b) have been achieved.

**SEC. 205. CONFORMING AMENDMENTS.**

Section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (i)) is amended—

(1) in paragraph (1), by striking “means a joint resolution” and all that follows through “, with the date” and inserting the following: “means—

“(A) for an agreement for cooperation pursuant to section 123 of this Act, a joint resolution, the matter after the resolving clause of which is as follows: ‘That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on \_\_\_\_\_.’,

“(B) for a determination under section 129 of this Act, a joint resolution, the matter after the resolving clause of which is as follows: ‘That the Congress does not favor the determination transmitted to the Congress by the President on \_\_\_\_\_.’, or

“(C) for a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, a joint resolution, the matter after the resolving clause of which is as follows: ‘That the Congress does not favor the subsequent arrangement to the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.’, with the date”;

(2) in paragraph (4)—

(A) by inserting after “45 days after its introduction” the following “(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction)”;

(B) by inserting after “45-day period” the following: “(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period)”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) each will control 20 minutes.

Mr. MARKEY. Mr. Speaker, I rise to claim the time in opposition to the bill as I am, in fact, opposed to the bill.

The SPEAKER pro tempore. Is the gentlewoman from Florida opposed to the motion?

Ms. ROS-LEHTINEN. I am not, Mr. Speaker.

The SPEAKER pro tempore. Pursuant to clause 1(c) of rule XV, the gentleman from Massachusetts will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that the ranking member of the House Foreign Affairs Committee, Ms. ROS-LEHTINEN, be

given 10 minutes, one-half of my time, to be put under her control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself no more than 5 minutes.

I am a strong advocate of closer U.S.-India ties, including peaceful nuclear cooperation. I voted for the Hyde Act, which established a framework for such cooperation today. The bill before us today will approve the U.S.-India Agreement for Peaceful Nuclear Cooperation.

Under the Hyde Act of 2 years ago, Congress was to have 30 days to review the agreement before beginning the consideration of a privileged resolution of approval. Instead, the agreement is now before us in the waning days before adjournment. We can approve the agreement now with the oversight safeguards built into this bill or we can wait until the next Congress and start over, but if we wait, however, we will likely only vote on a simple resolution of approval without any of these oversight improvements.

On balance, integrating India into a global nonproliferation regime is a positive step. Before anyone gets too sanctimonious about India's nuclear weapons program, we should acknowledge that the five recognized nuclear weapons states have not done nearly enough to fulfill their commitments under the Nuclear Nonproliferation Treaty, including making serious reductions in their own arsenals, nor in the case of the United States in ratifying the Comprehensive Test Ban Treaty.

Having said that, I continue to have concerns about ambiguities in the agreement, and I, therefore, will insert several documents in the RECORD to clarify the meaning of these and other important issues. It is my view that these documents constitute key and dispositive parts of the authoritative representations described in section 102 of this bill.

DEPARTMENT OF STATE,  
Washington, DC, Jan 16, 2008.

Hon. TOM LANTOS,  
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR CHAIRMAN LANTOS: I am writing in response to your letter of October 5, 2007, concerning Congressional review of the recently-initiated U.S.-India Agreement for peaceful nuclear cooperation (the “123” agreement).

The Department welcomes the opportunity to answer any questions that members of the Foreign Affairs Committee may have concerning the agreement. To that end, please find enclosed the Department's responses to the 45 Questions for the Record that you submitted with your letter.

Thank you for raising your concerns, as well as those of the other members of your committee, on this important issue. Thank you also for your personal interest in, and support of, the overall Civil Nuclear Cooperation Initiative. We look forward to working with you to secure passage of the

123 Agreement when it is submitted to Congress.

Sincerely,

JEFFREY T. BERGNER,  
Assistant Secretary,  
Legislative Affairs.

Enclosure. As stated.

QUESTIONS FOR THE RECORD SUBMITTED TO  
ASSISTANT SECRETARY BERGNER

*Question 1:* What is the Administration's expectation regarding the likely economic benefits of this partnership, including India's purchase of U.S. nuclear fuel, reactors, and technology?

Answer. We are confident that this initiative will yield important economic benefits to the private sector in the United States. 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 reactors, technology, fuel, and support services holds the promise of opening new markets for the United States. Indian officials indicate they plan to import at least eight 1000-megawatt power reactors by 2012, as well as additional reactors in the years ahead. Studies suggest that if American vendors win just two of these reactor contracts, it could add 3,000–5,000 new direct jobs and 10,000–15,000 indirect jobs in the United States. The Indian government has conveyed to us its commitment to enable full U.S. participation in India's civil nuclear growth and modernization. At least 15 nuclear-related U.S. firms, including General Electric and Westinghouse, participated in a business delegation led by the Commerce Department in December 2006.

In addition, participation in India's market will help make the American nuclear power industry globally competitive, thereby benefiting our own domestic nuclear power sector. This initiative will permit U.S. companies to enter the lucrative and growing Indian market—something they are currently prohibited from doing. In addition, access to Indian nuclear infrastructure will allow U.S. companies to build reactors more competitively here and in the rest of the world—not just India.

*Question 2:* What scientific and technical benefits does the U.S. expect as a result of this agreement?

Answer. A successfully implemented civil nuclear cooperation initiative with India will allow scientists from both our nations to work together in making nuclear energy safer, less expensive, more proliferation-resistant, and more efficient. Newly forged partnerships in this area may also facilitate scientific advancement in the many facets of nuclear energy technology. Indian involvement in international fora such as the International Thermonuclear Experimental Reactor and the Generation-IV Forum can expand the potential for innovation in the future of nuclear energy, as well as the stake of emerging countries in developing cheaper sources of energy.

In addition, we could choose to allow India to participate in the future in the Department of Energy's Global Nuclear Energy Partnership and collaborate with other countries with advanced nuclear technology in developing new proliferation-resistant nuclear technology. Such interaction could only be contemplated subsequent to the completion of the civil nuclear cooperation initiative.

*Question 3:* Does the Administration believe that the nuclear cooperation agreement with India overrides the Hyde Act regarding any apparent conflicts, discrepancies, or inconsistencies? Does this include provisions in the Hyde Act which do not appear in the nuclear cooperation agreement?

Answer. In his September 19 statement, Assistant Secretary Boucher twice made clear that “we think [the proposed 123 Agreement with India] is in full conformity with the Hyde Act.” Indeed, the Administration is confident that the proposed agreement is consistent with the legal requirements of both the Hyde Act and the Atomic Energy Act. The proposed agreement satisfies the particular requirements of Section 123 of the Atomic Energy Act with the exception of the requirement for full-scope safeguards, which the President is expected to exempt prior to the submission of the agreement to Congress for its approval, as provided for in section 104 of the Hyde Act. The agreement is also fully consistent with the legal requirements of the Hyde Act.

*Question 4:* Why are dual-use items for use in sensitive nuclear facilities mentioned in the proposed U.S.-Indian nuclear cooperation agreement, when such items are not transferred pursuant to an agreement for cooperation?

Answer. The Agreement provides for such transfers, consistent with the “full” cooperation envisaged by the July 18, 2005 Joint Statement. Article 5(2) of the 123 Agreement provides for such transfers by the Parties, however, only “subject to their respective applicable laws, regulations and license policies.” It is not unusual for U.S. agreements for peaceful nuclear cooperation to provide for transfers of items that would in fact be transferred outside the agreement, if they are to be transferred at all. For example, many U.S. agreements, including the proposed U.S.-India Agreement, cover transfers of “components” and “information,” even though such transfers would normally take place outside the agreement. Most importantly, it should be noted that while the proposed U.S.-India Agreement provides for transfer of the items in question, as a framework agreement it does not compel any such transfers; and as a matter of policy the United States does not transfer dual-use items for use in sensitive nuclear facilities.

*Question 5:* Is it the intention of the U.S. government to assist India in the design, construction, or operation of sensitive nuclear technologies through the transfer of dual-use items outside the agreement? If so, how is this consistent with long-standing U.S. policy to discourage the spread of sensitive nuclear technology and with Section 103(a)(5) of the Hyde Act? Has the U.S. transferred such dual-use items to sensitive nuclear facilities in other cooperating parties and, if so, to which countries?

Answer. Consistent with standing U.S. policy, the U.S. government will not assist India in the design, construction, or operation of sensitive nuclear technologies through the transfer of dual-use items, whether under the Agreement or outside the Agreement. The United States rarely transfers dual-use items for sensitive nuclear activities to any cooperating party and no such transfers are currently pending.

*Question 6:* Does the Administration have any plan or intention to negotiate an amendment to the proposed U.S.-India agreement to transfer to India sensitive nuclear facilities or critical components of such facilities? If so, how would such transfers be consistent with the above-cited provision of the Hyde Act and the long-standing U.S. policy to discourage the spread of such technologies?

Answer. The Administration does not plan to negotiate an amendment to the proposed U.S.-India Agreement to transfer to India sensitive nuclear facilities or critical components of such facilities.

*Question 7:* Is it the intention of the Administration to transfer or allow the transfer of sensitive nuclear technology outside of the U.S.-India nuclear cooperation agree-

ment? If so, how would such transfers be consistent with the Hyde Act and the long-standing U.S. policy to discourage the spread of such technologies?

Answer. Although the Hyde Act allows for transfers of sensitive nuclear technology under certain circumstances, it is not the intention of the Administration to transfer or allow the transfer of sensitive nuclear technology to India outside the U.S.-India Agreement for peaceful nuclear cooperation.

*Question 8:* What is the State Department's position regarding the manner by which an amendment to the proposed U.S.-India nuclear cooperation agreement would be submitted to the Congress? Because it would be an amendment to an exempted agreement, does the Administration agree that it would require a Joint Resolution of Approval before entering into force?

We would look at any future amendment on a case-by-case basis. Regarding the specific example discussed in the question, the Administration has no plan or intention to negotiate an amendment to the proposed U.S.-India agreement to transfer to India sensitive nuclear facilities or critical components of such facilities.

*Question 9:* Would the U.S. limit any transfer of dual-use technology to India's enrichment and reprocessing facilities to those that were participants in a bilateral or multinational program to develop proliferation-resistant fuel cycle technologies?

Answer. As previously stated, it is not the intention of the U.S. government to assist India in the design, construction, or operation of sensitive nuclear technologies through the transfer of dual-use items, whether under the Agreement or outside the Agreement. India does not have any facilities that participate in a bilateral or multinational program to develop proliferation-resistant fuel cycle technologies. If India were to develop such facilities, potential dual-use transfers could be considered only under the exceptions granted in the Hyde Act.

*Question 10:* Why does Paragraph 4 of Article 10 of the U.S.-India agreement rely on an IAEA decision regarding the impossibility of applying safeguards rather than either party's judgment that the Agency is not or will not be applying safeguards? Would this permit a situation to arise in which there were a period of time during which safeguards might not be applied but the IAEA had not reached a conclusion that the application of safeguards was no longer possible?

Answer. Paragraph 4 of Article 10 addresses one situation—the same situation as is addressed in paragraph 4(a) of the Nuclear Suppliers Group Guidelines—in which fall-back safeguards would be required because the International Atomic Energy Agency has decided that the application of Agency safeguards is no longer possible. It does not, however, constitute the fundamental basis provided by the Agreement for the application, if needed, of fall-back safeguards. That basis is provided by Paragraph 1 of Article 10 which states categorically that “[s]afeguards will be maintained with respect to all nuclear materials and equipment transferred pursuant to this Agreement, and with respect to all special fissionable material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating Party.”

This guarantee follows the formula prescribed by section 123(a)(1) of the U.S. Atomic Energy Act of 1954, as amended. Taken together with paragraph 3 of Article 16 of the Agreement, it provides that safeguards in some form—International Atomic Energy Agency or other—must always be maintained with respect to all nuclear items in

India subject to the Agreement so long as they remain under the jurisdiction or control of India irrespective of the duration of other provisions in the Agreement or whether the Agreement is terminated or suspended for any reason, precisely as section 123(a)(a) of the Atomic Energy Act requires.

Regarding the second part of the question, for the reasons just given, Paragraph 1 of Article 10 precludes there arising such a situation.

*Question 11:* Why does the provision not call for rectifying measures, as in the Japan agreement? Why does it not call for the parties to immediately enter into arrangements which conform to safeguards principles and procedures of the Agency?

Answer. Different approaches to fall-back safeguards are possible, consistent with the requirement of section 123(a)(1) of the Atomic Energy Act. If for some reason International Atomic Energy Agency safeguards fail to be applied to nuclear items in India subject to the U.S.-India Agreement, the Parties of necessity must enter into arrangements for alternative measures to fulfill the requirement of paragraph 1 of Article 10.

*Question 12:* Have "appropriate verification measures" been discussed, defined, or otherwise outlined with Indian officials? If Indian officials have shared their views on appropriate verification measures, what are those views? Do U.S. and Indian views diverge and if so, how?

Answer. The United States has not discussed in detail with India what form "appropriate verification measures" might take if the International Atomic Energy Agency decides that it is no longer possible for it to apply safeguards as provided for by paragraph 2 of Article 10 of the U.S.-India Agreement. The United States has expressed its view to India that acceptable alternative measures in that case might range from an alternative safeguards arrangement with the International Atomic Energy Agency, to some other form of international verification. The Government of India has expressed its view that for purposes of implementing the U.S.-India Agreement, Agency safeguards can and should be regarded as being "in perpetuity." At the same time it fully appreciates that paragraph 1 of Article 10 of the Agreement does not limit the safeguards required by the Agreement to Agency safeguards.

*Question 13:* In the U.S. view, how would potential appropriate verification measures provide effectiveness and coverage equivalent to that intended to be provided by safeguards in paragraph 1 of Article 10?

Answer. The "appropriate verification measures" referred to in paragraph 4 of Article 10 would be an alternative to International Atomic Energy Agency safeguards applied pursuant to the India-Agency safeguards agreement referenced in paragraph 2 of Article 10, the implementation of which in the normal course of events would satisfy the safeguards requirement of paragraph 1 of Article 10 with respect to India. If it were no longer possible for the Agency to apply safeguards to nuclear items subject to the U.S.-India Agreement in India, alternative verification measures agreed by the Parties would need to be carried out on some other international basis to maintain continuity of safeguards as required by paragraph 1 of Article 10. The United States would expect such measures to provide effectiveness and coverage equivalent to that intended to be provided by the India-Agency safeguards agreement referenced in paragraph 2 of Article 10, albeit without a necessary role for the International Atomic Energy Agency in their application.

*Question 14:* Which of the commitments that the United States made in Article 5 are

of a binding legal character? Does the Indian Government agree?

Answer. The question quotes paragraph 6 of article 5, which contains certain fuel supply assurances that were repeated verbatim from the March 2006 separation plan. These are important Presidential commitments that the U.S. intends to uphold, consistent with U.S. law.

*Question 15:* What is the definition of "disruption of supply" as used in Article 5? Do the U.S. and Indian governments agree on this definition?

Answer. It is the understanding of the United States that the use of the phrase "disruption of fuel supplies" in Article 5.6 of the 123 Agreement is meant to refer to disruptions in supply to India that may result through no fault of its own. Examples of such a disruption include (but are not limited to): a trade war resulting in the cut-off of supply; market disruptions in the global supply of fuel; and the potential failure of an American company to fulfill any fuel supply contracts it may have signed with India. We believe the Indian government shares our understanding of this provision.

*Question 16:* Would any of these commitments continue to apply if India detonated a nuclear explosive device? If so, under what circumstances?

Answer. As outlined in Article 14 of the 123 Agreement, should India detonate a nuclear explosive device, the United States has the right to cease all nuclear cooperation with India immediately, including the supply of fuel, as well as to request the return of any items transferred from the United States, including fresh fuel. In addition, the United States has the right to terminate the agreement on one year's written notice. (Notice of termination has to precede cessation of cooperation pursuant to Article 14). In case of termination, the commitments in Article 5.6 would no longer apply.

*Question 17:* Do the assurances in Article 5 require the United States to assist India in finding foreign sources of nuclear fuel in the event that the United States ceases nuclear cooperation with India?

Answer. Ceasing nuclear cooperation with India would be a serious step. The United States would not take such a serious step without careful consideration of the circumstances necessitating such action and the effects and impacts it would entail. Such circumstances would include, for example, detonation of a nuclear weapon, material violation of the 123 Agreement, or termination, abrogation, or material violation of International Atomic Energy Agency safeguards. The provisions in article 14 on termination of the agreement and cessation of cooperation would be available in such circumstances, and their exercise would render article 5.6 inapplicable. Moreover, such circumstances would likely be inconsistent with the political underpinnings of the U.S.-India Initiative upon which the commitments in article 5.6 were based.

*Question 18:* How is this fuel supply assurance consistent with Section 103(a)(6) of the Hyde Act which states that it is U.S. policy to: "Seek to prevent the transfer to any country of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this title, the Atomic Energy Act, or any other United States law"?

Answer. There is no inconsistency between the fuel supply assurances contained in Article 5 of the U.S.-India Agreement and section 103(a)(6) of the Hyde Act. Paragraph 6 of Article 5 of the U.S.-India Agreement records assurances given by the United States to India in March 2006. In particular, the United

States conveyed its commitment "... to work with friends and allies to adjust the practices of the Nuclear Suppliers Group to create the necessary conditions for India to obtain full access to the international fuel market, including reliable, uninterrupted and continual access to fuel supplies from firms in several nations," and "[i]f despite these arrangements a disruption of fuel supplies to India occurs, the United States and India would jointly convene a group of friendly countries ... to pursue such measures as would restore fuel supply to India."

These fuel supply assurances are intended to guard against disruptions of fuel supply to India that might occur through no fault of India's own. Instances of such a disruption might include, for example, a trade war resulting in the cut-off of supply, market disruptions in the global supply of fuel, or the failure of a company to fulfill a fuel supply contract it may have signed with India. In such circumstances the United States would be prepared to encourage transfers of nuclear fuel to India by other Nuclear Suppliers Group members.

The fuel supply assurances are not, however, meant to insulate India against the consequences of a nuclear explosive test or a violation of nonproliferation commitments. The language of Article 5.6(b), particularly in the context of Article 14, does not provide for any such insulation.

*Question 19:* How are these provisions regarding a life-time strategic reserve for the operating life of India's safeguarded reactors consistent with subparagraph (10) of paragraph (a) of Section 103 of the Hyde Act, which states that: "Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable operating requirements"?

Answer. We do not read these provisions to be inconsistent. The parameters of the proposed "strategic reserve" and of India's capacity to acquire nuclear fuel for its reactors will be developed over time. Thus, it is premature to conclude that the strategic reserve will develop in a manner inconsistent with the Hyde Act.

*Question 20:* Do the U.S. and India agree on the definition of reasonable reactor operating requirements for Indian reactors? If yes, what is it? If not, how do they disagree? Does the U.S. have an assessment of how much nuclear material would be required for a life-time strategic reserve for each safeguarded Indian power reactor that could receive fuel pursuant to the proposed agreement?

Answer. The U.S.-India Agreement does not define "reasonable operating requirements," and the two governments have not discussed a definition. Any definition would have to take into account among other things the physical characteristics of the reactors, their expected operating cycles, their expected time in service, the likelihood of fuel supply disruptions over decades of operation, and many similar factors that are difficult to quantify in the abstract. We would expect that the actual amount of fuel put in the reserve would depend not only on the factors just mentioned, but also on such factors as availability of fuel in the market, price, Indian storage capacity, costs of storage, and similar practical considerations. The Agreement itself establishes neither a minimum nor a maximum quantity of nuclear material to be placed in India's reserve.

*Question 21:* How are these assurances consistent with subparagraph (6) of paragraph (a) of Section 103 of the Hyde Act which states that it is U.S. policy to: "Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group or from any other

source if nuclear transfers to that country are suspended or terminated pursuant to this title, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law”?

Answer. Please see the response to Question 18.

**Question 22.** What impact will these U.S. commitments of nuclear fuel supply to India have on the U.S. initiatives to discourage the spread of enrichment and reprocessing facilities?

Answer. We do not foresee any negative impact on these initiatives. India already possesses both types of facilities. We do not believe that the provision of fuel assurances to India will have any effect on our efforts to offer reliable access to nuclear fuel to persuade countries aspiring to develop civil nuclear energy to forgo enrichment and reprocessing capabilities of their own.

**Question 23.** Have the Indians explained to the U.S. or to the International Atomic Energy Agency their definition of the term “an India-specific safeguards agreement?” If so, what is it?

Answer. The Indian government has not yet explained to the United States what it means by the term “India-specific” safeguards agreement. The Indian government has been in discussions with the IAEA regarding its safeguards agreement. However, these discussions have not concluded. The United States remains confident that the safeguards agreement to be negotiated between India and the IAEA will address all of the concerns associated with the term “India-specific.”

**Question 24.** Which provisions of INFCIRC/66/Rev.2 agreements provide for safeguards in perpetuity? Would these apply to civil nuclear reactors that a country such as India requests the IAEA to safeguard?

Answer. INFCIRC/66/Rev.2 is not a “model agreement” as is INFCIRC/153 (the basis for NPT safeguards agreements)—INFCIRC/66-type agreements are not as rigidly determined as Nuclear Nonproliferation Treaty safeguards agreements. Because INFCIRC/66-type agreements do not involve fullscope safeguards (safeguards applied to all nuclear material in a state), but have been aimed at the application of safeguard to specific supplied materials or facilities, the scope of safeguards application is delineated uniquely in each agreement.

This is generally done through the mechanism of a dynamic list of inventory items to which the agreement stipulates that safeguards must be applied. The main part of the inventory list contains facilities and material that are permanently under safeguards. The subsidiary part of the inventory list contains facilities that are temporarily under safeguards due to the presence of safeguarded material. There is a third section of the list that contains nuclear material on which safeguards are suspended or exempted (e.g., because the material has been diluted to the point where it is no longer usable, has been transferred out of the state, etc.). We would expect that the Indian safeguards agreement will be based on this general structure, and that the nuclear facilities India declares to be “civil” will be placed in the main (permanent safeguards) part of the inventory list. Also in the main part of the inventory would be nuclear material exported to India, and any nuclear material generated through the use of that material.

Consistent with International Atomic Energy Agency Board Document GOV/1621 (which is referenced in the Hyde Act, Sec. 104(b)2), the safeguards agreement should also contain language that ensures that: (1) the duration of the agreement is related to the period of actual use of the items in the recipient state; and (2) the rights and obliga-

tions with respect to safeguarded nuclear material shall apply until such time as the International Atomic Energy Agency terminates safeguards pursuant to the agreement (e.g. the material is no longer usable or has been transferred from the recipient state).

**Question 25.** Has the Indian government provided U.S. officials with a definition of “corrective measures”? If so, what is it? Does it involve removing IAEA-safeguarded material from such safeguards in certain circumstances? If so, does the U.S. support the conclusion of an Indian agreement with the IAEA that provides for perpetuity of safeguards while at the same time making such perpetuity contingent on the invocation of “corrective measures”?

Answer. The Indian government has not provided the United States with a definition of “corrective measures.” Until a safeguards agreement is completed between India and the International Atomic Energy Agency and the issue of “corrective measures” is clarified, we cannot comment on the appropriateness of the agreement. However, we expect that the Indian government will implement in letter and in spirit its commitment to “safeguards in perpetuity,” to which it agreed on March 2, 2006. As Secretary Rice stated during her testimony before the Senate Foreign Relations Committee on April 5, 2006, “We’ve been very clear with the Indians that the permanence of safeguards is the permanence of safeguards without condition.”

**Question 26.** Since India is not a party to the Nuclear Nonproliferation Treaty (NPT) and does not accept full-scope safeguards, does this long-term consent for reprocessing for India change U.S. policy for granting long-term consent to reprocessing and the use of plutonium? If so, what criteria will the U.S. now use to consider requests for reprocessing and the use of plutonium either on a case-by-case basis or for long-term advance programmatic arrangements?

Answer. The consent to reprocessing is contingent upon the construction of a new, dedicated reprocessing facility that will be under International Atomic Energy Agency safeguards. The criteria applied by the United States in considering the Indian request were the same as those applied in the earlier instances (EURATOM and Japan). They are that (1) the reprocessing will not be inimical to the common defense and security, and (2) the reprocessing will not result in a significant increase in the risk of proliferation beyond that which exists at the time the approval is requested, giving foremost consideration to whether the reprocessing will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the diverted material could be transformed into a nuclear explosive device. These are the criteria for granting approval for reprocessing established by section 131 of the Atomic Energy Act.

Article 6(iii) of the Agreement provides that India and the United States must agree on “arrangements and procedures” under which the reprocessing will take place before India can physically reprocess any material subject to the Agreement. The Administration will ensure that the safeguards, physical protection and other measures to be set forth in the agreed “arrangements and procedures” will be both rigorous and consistent with the criteria described above.

**Question 27.** What special challenges will the International Atomic Energy Agency (IAEA) face in safeguarding a reprocessing plant in a non-NPT state that does not have full-scope safeguards?

Answer. Assuming that, consistent with the terms of the 123 Agreement, India builds a new reprocessing plant dedicated to the processing of material under International

Atomic Energy Agency safeguards, there would be little, if any, difference in the technical challenge of applying safeguards to such a facility as opposed to a comparable facility in a State with a comprehensive safeguards agreement. There are some differences under an INFCIRC/66 agreement in the state’s record-keeping and material accounting report requirements, but these should not have an impact on safeguards effectiveness. The technical objectives and technical measures applied in the two cases would not differ in any significant way. In each case the International Atomic Energy Agency would seek to provide assurance that the declared material was not diverted, and that the facility was operated in the manner declared. The facility would be under uninterrupted safeguards, and the material entering, exiting, and resident in the facility would all be subject to safeguards. In the case of India, the Agency’s safeguards conclusions would have to be limited to the civil facilities and materials under safeguards, and could not be extrapolated to apply to the nuclear program as a whole.

**Question 28.** Will the U.S. insist that the safeguards agreement for the planned Indian reprocessing plant include all the safeguards procedure and approaches that the IAEA applies to the Rokkasho reprocessing facility in Japan, including state-of-the-art, near-real-time accountancy and containment and surveillance?

Answer. U.S. policy is that safeguards should be applied to meet established technical standards of effectiveness, as efficiently as possible; that is the policy we pursue in the context of our bilateral agreements with other states such as Japan, and we would continue to pursue such a policy in discussions with India in connection with arrangements for reprocessing. The safeguards methods employed at the Rokkasho Reprocessing Plant are consistent with both International Atomic Energy Agency safeguards criteria, and with the results of a lengthy international cooperative effort to address the technical problems of safeguarding large reprocessing plants. We would expect the same approaches to apply to a new Indian reprocessing plant dedicated to processing safeguarded material. However, we cannot yet speculate that safeguards would be carried out in exactly the same manner, although containment, surveillance, and some sort of continuous material monitoring would certainly be involved. A new reprocessing plant may well be many years off, and safeguards technology constantly moves forward; by the time a new Indian plant is in operation, there will almost certainly be a new generation of surveillance and radiation measurement devices available, and lessons learned from Rokkasho safeguards.

**Question 29.** Will the Administration submit any consent arrangements for Indian reprocessing to Congress as an amendment to the U.S.-India agreement for cooperation so that Congress will have a full 90 days to give adequate time to review its provisions? Or will the Administration submit these only as a subsequent arrangement under section 131 of the Atomic Energy Act, thereby allowing Congress only 15 days of continuous session for review of this complex issue?

Answer. Section 131 of the Atomic Energy Act provides explicitly for review and execution of subsequent arrangements related to the reprocessing of U.S. origin material. However, if proposed “arrangements and procedures” for reprocessing involved changes to provisions in the U.S.-India 123 Agreement, an amendment to the agreement would be required.

**Question 30.** Why are the programmatic consent arrangements that the U.S. is proposing to India, a non-NPT signatory, much

less specific and rigorous than the procedures that the U.S. required of EURATOM and Japan?

Answer. The advance, long-term consent accorded to India in the U.S.-India Agreement by Article 6(iii) centers on a new Indian national reprocessing facility that has not yet been designed, let alone built. Many relevant nonproliferation considerations that could readily be dealt with in the texts of the U.S.-Japan and U.S.-EURATOM agreements (or in related documents) could not be dealt with immediately in the U.S.-India Agreement.

Nevertheless, the U.S.-India Agreement establishes as fundamental criteria that a new national reprocessing facility must be dedicated to reprocessing safeguarded nuclear material under International Atomic Energy Agency safeguards, and that any special fissionable material (i.e., plutonium) separated by the facility may only be utilized in national facilities under International Atomic Energy Agency safeguards. Further, it provides that the consent does not become effective until the United States and India consult and agree on arrangements and procedures under which activities at the new facility will take place.

Finally, Article 6(iii) provides that the arrangements and procedures must address nonproliferation considerations identical to those addressed in the procedures relating to the U.S.-Japan and U.S.-EURATOM agreements (e.g. safeguards, physical protection, storage, environmental protection), as well as "such other provisions as may be agreed by the Parties." At the appropriate time the United States will consult with India for the purpose of agreeing on the requisite arrangements and procedures and will ensure that they are no less rigorous than those governing the U.S. consent arrangements with Japan and with EURATOM.

*Question 31.* Why are there no notification procedures for adding new Indian facilities to the list of facilities that may use plutonium derived from U.S.-supplied fuel?

Answer: The procedures established by Article 7.1 of the U.S.-India Agreement whereby each Party records all facilities storing separated plutonium subject to the Agreement on a list and makes its list available to the other Party serve equally to notify to the other Party all facilities utilizing (or potentially utilizing) plutonium subject to the Agreement, since the plutonium-bearing fuel must first be located at the facility before it can be utilized. A similar approach is taken in the U.S.-EURATOM Agreement, where facilities formally notified as being added to a party's "Delineated Program" (Annex A) do not include utilization facilities; the latter are notified, as appropriate, when they are added to a "Storage" list as provided for by Article 8.3.

*Question 32.* Will the United States insist that any plutonium and uranium recovered from the reprocessing of U.S.-origin fuel at the proposed dedicated Indian reprocessing facility be subject to IAEA safeguards and peaceful, non-explosive use assurances in perpetuity, including any such material recycled in Indian reactors?

Answer. Yes. Article 9, Article 10, and Article 16 of the U.S.-India Agreement guarantee this coverage.

*Question 33.* Will the U.S. insist that any uranium or plutonium used in or produced through the use of U.S.-supplied material be subject to safeguards in perpetuity if such material is used in India's breeder reactors?

Answer. Yes. Article 10 of the U.S.-India Agreement guarantees this coverage.

*Question 34.* If India decides at some point in the future to reprocess spent breeder reactor fuel that contains U.S.-origin material, how will the U.S. ensure that it is subject to

all the non-proliferation conditions and controls in the proposed agreement, including safeguards and consent rights?

Answer. Article 10.6 of the U.S.-India Agreement provides that "[e]ach Party shall establish and maintain a system of accounting for and control of nuclear material transferred pursuant to this Agreement and nuclear material used in or produced through the use of any material, equipment, or components so transferred." Article 10.7 provides that [u]pon the request of either Party, the other Party shall report or permit the IAEA to report to the requesting Party on the status of all inventories of material subject to this Agreement." Thus, the United States will be able to track all clear material in India subject to the Agreement, including at India's breeder reactors (which would have to be brought under International Atomic Energy Agency safeguards before U.S.-obligated nuclear material could be introduced to them), at India's new dedicated reprocessing facility (when built), and at any other Indian facility where U.S.-obligated plutonium may be located. In tracking this material the United States will be able to ensure that all conditions and controls required by the Agreement, including International Atomic Energy Agency safeguards, are in fact being maintained.

*Question 35.* In light of these requirements of U.S. law, why doesn't the proposed U.S.-Indian peaceful nuclear cooperation agreement contain an explicit reference to the actions that would give the U.S. the right to terminate nuclear cooperation and to require the return of equipment and materials subject to the agreement, if India detonates a nuclear explosive device?

Answer. Article 14 of the proposed U.S.-India agreement for cooperation provides for a clear right for the U.S. to terminate nuclear cooperation and a right to require the return of equipment and materials subject to the agreement in all of the circumstances required under the Atomic Energy Act, including if India detonated a nuclear explosive device or terminated or abrogated safeguards (per section 123(a)(4) of the Act). Thus, it fully satisfies the relevant requirements of the Act.

*Question 36.* Does the U.S. possess the right under Article 14, without any precondition or consent by India, to take back any and all U.S.-origin nuclear material or equipment provided to India pursuant to the nuclear cooperation agreement?

Answer. Under Article 14 of the proposed agreement, the U.S. would be able to exercise the right to require the return of material and equipment subject to the agreement after (1) giving written notice of termination of the agreement and (2) ceasing cooperation, based on a determination that "a mutually acceptable resolution of outstanding issues has not been possible or cannot be achieved through consultations." Thus, both of the actions that must be taken to exercise the right of return would be within the discretion of the U.S. Government, and both actions could be taken at once in the unlikely case that the U.S. believed that a resolution of the problem could not be achieved through consultations.

Article 14 does not require that the other party consent to the exercise of the right to terminate the agreement, the right to cease cooperation, or the right of return. Prior to the actual removal of items pursuant to the right of return, the parties would engage in consultations regarding, inter alia, the quantity of items to be returned, the amount of compensation due, and the methods and arrangements for removal. These consultations are a standard feature of right of return provisions and are included in all 123 agreements that the United States has signed with other cooperating parties.

*Question 37.* Under what circumstances does the termination provision allow the United States to terminate cooperation with India? Does the U.S. have the unconditional right to cease cooperation immediately upon its determination that India has taken action that the U.S. believes constitutes grounds for termination of cooperation?

Answer. Like all other U.S. agreements for nuclear cooperation, the proposed U.S.-India agreement is a framework agreement and does not compel any specific cooperation. Thus, a cessation of cooperation would not be inconsistent with the provisions of the agreement. Also, as in other agreements for cooperation, the proposed U.S.-India agreement provides specifically (in article 14) for a right to cease cooperation. Article 14 makes clear that the U.S. would have the right to cease cooperation immediately if it determined that India had taken actions that constituted grounds for such cessation and that a resolution of the problem created by India's actions could not be achieved through consultations. This is a reciprocal right that India enjoys as well. Article 14 does not elaborate the specific circumstances that might bring about such a formal cessation of cooperation. However, the provisions of article 14 underscore the expectation of both parties that termination of the agreement, cessation of cooperation, and exercise of the right of return would be serious measures not to be undertaken lightly.

*Question 38.* Could the U.S. terminate cooperation pursuant to Article 14 of the nuclear cooperation agreement for reasons other than India's detonation of a nuclear explosive device or abrogating or violating a nuclear safeguards agreement? Does the government of India agree?

Answer. As noted in the previous answer, Article 14 of the U.S.-India Agreement does not elaborate the specific circumstances that might trigger a cessation of cooperation pursuant to that article. As explained in the answer to question 17, the circumstances for possible termination would include, for example, detonation of a nuclear weapon, material violation of the 123 Agreement, or termination, abrogation, or material violation of a safeguards agreement. The provisions of Article 14 underscore the expectation of both parties that termination of the agreement, cessation of cooperation, and exercise of the right of return would be serious measures not to be undertaken lightly. We believe the language establishing these rights is clear and well understood by both countries.

*Question 39.* Do the nonproliferation assurances and conditions in the proposed new agreement apply to the nuclear materials and equipment that the U.S. supplied for the Tarapur reactors, as well as the spent fuel from those reactors? If not, why?

Answer. The proposed U.S.-India Agreement would not apply retroactively to the spent fuel from the Tarapur reactors. The Atomic Energy Act does not require such retroactive application, but it does impose certain conditions with respect to previously exported material before embarking on new cooperation (see section 127). The Administration believes it will be able to satisfy these requirements of the Atomic Energy Act.

*Question 40.* Does the U.S. continue to hold the position that India legally obligated to adhere to the nonproliferation assurances and controls, including peaceful-use assurances, safeguards, consent to reprocessing and retransfer to their countries with respect to the nuclear equipment and materials that were subject to the expired 1963 agreement for cooperation? Does the Indian Government share the U.S. views?

Answer. The U.S. and India have maintained differing legal positions on the question of residual conditions and controls on

nuclear material subject to the 1963 agreement following expiration of the agreement in 1993. However, India has agreed with the International Atomic Energy Agency on the application of safeguards to nuclear material from the Tarapur reactors. Moreover, the material is subject to the INFCIRC/66 Agreement. And the U.S. is confident that there would be consultations between the U.S. and India before any change in the status of the nuclear material (e.g., reprocessing).

*Question 41.* Will the Indian Government have any legal right to suspend or eliminate safeguards, reprocess U.S.-origin material, or otherwise take any action that would be prohibited under the proposed agreement after the termination by either party of the proposed?

Answer. Article 16 of the proposed U.S.-India Agreement expressly provides for the survival of essential rights and conditions on items subject to the agreement even after termination or expiration of the agreement, including inter alia with respect to the application of safeguards (article 10), reprocessing consent (article 6), and peaceful use (article 9).

*Question 42.* Does the Administration agree with Prime Minister Singh that there will be no derogation of India's right to take corrective measure in the event of fuel supply interruption? Will any corrective measures that India might take involve any derogation of the U.S. nonproliferation assurances, rights, and controls that are set out in articles 5.6(c), 6, 7, 8, 9, and 10?

Answer. The language of article 16 clearly provides for the applicability of the referenced provisions to items subject to the proposed agreement even after termination or expiration of the agreement. Until India has completed its safeguards agreement with the International Atomic Energy Agency and the parameters of "corrective measures" are known, we will not be in a position to speak definitively to the potential effect on other provisions of the proposed agreement. That said, it would not be consistent with the proposed agreement text for such corrective measures to extract from the applicability of the provisions referenced in article 16 to items subject to the proposed agreement, including after termination or expiration of the agreement.

*Question 43.* What are the explicit linkages and interlocking rights and commitments that Prime Minister Singh was referring to? Do the U.S. and India governments agree on the definition of these linkages and interlocking rights and commitments? If not, how do they differ?

Answer. International agreements, by their nature, typically involve interlocking rights and commitments, and this is the case with our agreements for nuclear cooperation. The creation of a framework for nuclear cooperation is predicated on a set of rights and conditions that serve essential nonproliferation purposes. Beyond that, we can only say that the quoted statement is at a high level of generality, and we are not in a position to speak for the Indian government as to whether anything more specific was intended by these words.

*Question 44.* What is the Administration's understanding of the Prime Minister's statement that India's reprocessing rights are "permanent"? Specifically, does it mean that the U.S. will not have the right to withdraw its consent to India's reprocessing of U.S.-obligated nuclear material, even if the U.S. determines that the continuation of such activities would pose a serious threat to our national security or nonproliferation?

Answer. The U.S. has agreed to the reprocessing of U.S.-origin materials, to come into effect when the parties agree on "arrangements and procedures" and India establishes

a new national reprocessing facility dedicated to reprocessing safeguarded material under IAEA safeguards. As with the arrangements governing reprocessing consents granted by the U.S. in connection with the Japan and EURATOM agreements, the proposed arrangements and procedures with India will provide for withdrawal of reprocessing consent. Such a right is also included in Article 14.9 of the U.S.-India Agreement.

*Question 45.* In the conference report of the Hyde Act, Congress stated that it intended for the United States to "seek agreement among Nuclear Suppliers Group members that violations by one country of an agreement with any Nuclear Suppliers Group member should result in joint action by all members, including, as appropriate, the termination of nuclear exports." Will the administration be seeking such a commitment when it proposes that the Nuclear Suppliers Group provide a nuclear trade rule exemption for India? If not, why not?

Answer. Paragraph 16 of the Nuclear Suppliers Group Guidelines for Nuclear Transfers (INFCIRC/254/Rev.8/Part 1) provides that suppliers should (1) consult if, inter alia, one or more suppliers believe there has been a violation of a supplier/recipient understanding; (2) avoid acting in a manner that could prejudice measures that may be adopted in response to such a violation; and (3) agree on "an appropriate response and possible action, which could include the termination of nuclear transfers to that recipient." Assuming the Nuclear Suppliers Group agrees by consensus to an exception for India, this guideline would apply in the case of any nuclear transfers by a Nuclear Suppliers Group supplier to India. The Administration believes that the existing provisions of paragraph 16 of the Guidelines serve the Congressional concerns expressed in the conference report on the Hyde Act, and therefore no further elaboration is needed in connection with the proposed exception for India.

Mr. BERMAN. Mr. Speaker, this bill also gives the right to disapprove a Presidential decision to resume civil nuclear cooperation with any country, not just with India, that tests a nuclear weapon. It will also ensure that India takes the necessary remaining steps to bring its IAEA safeguards agreement fully into force and to conclude an additional protocol with the IAEA as India has committed to do. It gives Congress the ability to review the future reprocessing arrangements that will allow India to reprocess spent U.S. fuel.

Finally, late yesterday, Secretary of State Rice made a personal commitment to me that, in a change of policy, the United States will make its highest priority at the November meeting of the Nuclear Suppliers Group the achievement and the decision by all of the nuclear suppliers to prohibit the export of enrichment and reprocessing equipment and technology to states that are not members of the treaty on nonproliferation. This would be consistent with the intent of the Congress as expressed in the Hyde Act.

In light of the improvements for congressional oversight in this bill and in light of the Secretary's commitment, I will be voting for H.R. 7081.

Mr. Speaker, I'm a strong advocate of closer U.S.-India ties, and I support peaceful nuclear cooperation between our two countries. In

2006, I voted for the Hyde Act, which established a framework for such cooperation. The bill before us today, the "United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act," would approve the U.S.-India Agreement for Peaceful Nuclear Cooperation, and allow that agreement to come into effect for the United States.

Under the Hyde Act, Congress was to have 30 days to review the agreement before beginning consideration of a privileged resolution of approval. Unfortunately, because of months of delay in New Delhi and the Administration's acceleration of the deliberations of the Nuclear Suppliers Group to grant India an exemption from its restrictions on trade to India, the Agreement is now before us in the waning days before adjournment.

We therefore have two choices: approve the Agreement now, with the safeguards built into this bill; or wait until the next Congress and start again. If we wait, however, we will likely only vote on a simple resolution of approval, without the safeguards of this bill, and without the additional enhancements to Congressional oversight over these types of agreements that are required. Our leverage on the Administration—this one or the next—will only decrease with time.

On balance, integrating India into the global nonproliferation regime is a positive step. And before anyone gets too sanctimonious about India's nuclear weapons program, we should acknowledge that the five recognized nuclear weapons states haven't done nearly enough to fulfill their commitments under the Nuclear Nonproliferation Treaty, including making serious reductions in their own arsenals. Nor has the U.S. ratified the Comprehensive Test Ban Treaty.

Having said that, I continue to have concerns about ambiguities in the nuclear cooperation agreement that the Bush Administration negotiated with the government of India, particularly with regard to the potential consequences if India tests another nuclear weapon, and to the legal status of so-called "fuel assurances" made by our negotiators.

Section 102(a) of the legislation before us declares that the agreements have the meanings contained in the authoritative representations by the President and his representatives.

I ask unanimous consent to include in the RECORD5st a message from the President and a letter from the State Department that directly pertain to the interpretation of the U.S.-India agreement and that constitute some of the authoritative representations made by the President described in section 102(a).

These documents make clear that the assurances contained in Article 5(6) of the Agreement are political commitments, and do not constitute a legal obligation on behalf of the United States or any official, agency, or instrumentality of the Government of the United States to provide nuclear fuel in any form to the Government of India, or to any Indian organization, individual, or entity under any circumstances whatsoever. They also make clear that the political commitments contained in Article 5(6) of the Agreement do not apply in the event of a disruption of the foreign supply of nuclear fuel to India as a consequence of a detonation of nuclear explosive device or a violation of nonproliferation commitments by India.

I am also deeply troubled that the Administration completely disregarded important nonproliferation requirements in the Hyde Act—

thus putting American companies at a competitive disadvantage—when seeking a special exemption for India at the Nuclear Suppliers Group.

This bill therefore includes a number of provisions designed to improve Congressional oversight of the India nuclear cooperation agreement and help ensure that the agreement is interpreted in a manner consistent with the constraints in the Hyde Act.

It gives Congress the right to disapprove, under expedited procedures, a Presidential decision to resume civil nuclear cooperation with any country—not just India—that tests a nuclear weapon. We, the Congress, should be involved in that process.

And the legislation will ensure that India takes the necessary remaining steps to bring its IAEA safeguards agreement fully into force, to place the reactors and other facilities under those safeguards, and to conclude a more extensive Additional Protocol for enhanced safeguards with the IAEA, all of which it has previously committed to do.

And, Mr. Speaker, this legislation gives Congress the ability to review the reprocessing arrangement yet to be negotiated that will set out the conditions and safeguards to allow India to reprocess spent U.S. fuel.

Finally, late yesterday, Secretary of State Rice made a personal commitment to me that—in a change of policy—the United States will give its “highest priority” to achieving an agreement at the November Nuclear Suppliers Group (NSG) meeting to prohibit the export of enrichment and reprocessing equipment and technology to states that are not members of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). This would be consistent with the intent of Congress as expressed in the Hyde Act to further restrict the international transfers of this sensitive technology.

In light of the improvements for Congressional oversight in this bill, I will be voting for H.R. 7081.

I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Let me thank the gentleman for yielding and for your loyal opposition to this very bad requirement for us now to approve this. Let me thank Mr. BERMAN also for your leadership and for your hard work in managing this.

Mr. Speaker, I strongly disapprove of this agreement, and urge my colleagues to do likewise. In withholding my approval, I seek not to penalize the people of India but, rather, to affirm the principle of nuclear nonproliferation and to maintain the integrity of the international nonproliferation standards.

Several years ago, I had the privilege of visiting India, and I witnessed firsthand the brilliance, the spirit and the commitment of the democracy of the Indian people. The United States and India are the two largest democracies in the world and have for many years enjoyed an excellent relationship.

Given the tremendous progress India has made and can be expected to make in the future, strengthening the ties that bind our countries together is a critically important strategic goal of

the United States, but the suggestion that we can only do so by jettisoning adherence to the international nuclear nonproliferation framework that has served the world so well for more than 30 years, as approval of the agreement before us would do, is just simply unwise. It is also reckless.

Approval of this agreement undermines our efforts to dissuade countries like Iran and North Korea from developing nuclear weapons. By approving this agreement, all we are doing is creating incentives for other countries to withdraw from the Nuclear Nonproliferation Treaty.

Why should we expect, for example, Brazil or South Korea to continue playing by the rules in foregoing the development of nuclear weapons in exchange for civilian technology when they see that India receives the benefits while flouting the rules?

Mr. Speaker, the fact that India is not a signatory to the Nuclear Nonproliferation Treaty is sufficient reason for me to disapprove the agreement, but for those of my colleagues who may have supported the bill, there are many other compelling reasons to disapprove this agreement.

So I ask all Members to say that we want to adhere to nonproliferation and not pass this approval.

I thank the gentlemen for yielding, I also thank Chairman BERMAN for his hard work in managing the consideration by this body of the U.S.-India Civilian Nuclear Cooperation Agreement, which comes before the Congress for approval pursuant to section 123 of the Atomic Energy Act of 1954.

I strongly disapprove of this agreement and urge my colleagues to do likewise. In withholding my approval I seek not to penalize the people of India but rather to affirm the principle of nuclear nonproliferation and to maintain the integrity of international nonproliferation standards.

Several years ago I had the privilege of visiting India and witnessed firsthand the brilliance, the spirit, and the commitment to democracy of the Indian people. The United States and India are the two largest democracies in the world and have for many years enjoyed an excellent relationship. Given the tremendous progress India has made and can be expected to make in the future, strengthening the ties that bind our countries is a critically important strategic goal of the United States.

But the suggestion that we can only do so by jettisoning adherence to the international nuclear nonproliferation framework that has served the world so well for more than 30 years, as approval of the agreement before would do, is not simply unwise. It is reckless.

Approval of this agreement undermines our efforts to dissuade countries like Iran and North Korea from developing nuclear weapons. By approving this agreement all we are doing is creating incentives for other countries to withdraw from the Nuclear Nonproliferation Treaty. Why should we expect, for example, Brazil or South Korea to continue playing by the rules and foregoing development of nuclear weapons in exchange for civilian technology when they see India receive the benefits while flouting the rules?

Mr. Speaker, the fact that India is not a signatory to the Nuclear Nonproliferation Treaty is sufficient reason for me to disapprove this agreement. But for those of my colleagues who may have supported H.R. 5682, the Henry J. Hyde United States India Peaceful Atomic Energy Cooperation Act (“Hyde Act”), there are two other compelling reasons to disapprove this agreement.

First, the agreement will indirectly assist India’s nuclear weapons program because foreign supplies of nuclear fuel to India’s civil nuclear sector will free up electricity generation capacity to produce weapons-grade plutonium.

Second, the Hyde Act requires that the provisions in any agreement governing safeguards on civil nuclear material and facilities remain in effect “in perpetuity” and must be “consistent with IAEA standards and practices.” The requirement that India be bound to comply with these safeguards in perpetuity is not satisfied because Indian governmental officials have publicly suggested that India may withdraw from the safeguards agreement if fuel supplies are interrupted, even if the interruption is the required response to a breach of the agreement by India.

Mr. Speaker, we should not forget that unlike 179 other countries, India has not signed the Comprehensive Test Ban Treaty (CTBT), and is one of only three countries never to have signed the Nuclear Nonproliferation Treaty. And it is noteworthy that while it continues to produce fissile material, India has never made a legally binding commitment to nuclear disarmament or nonproliferation.

To sum up, this deal will not advance America’s interests or make the world safer. It will, however, deal a near fatal blow to the stability of the international nonproliferation regime. For these reasons, I will vote to disapprove the agreement.

Ms. ROS-LEHTINEN. Mr. Speaker, I’d like to yield myself 4 minutes.

I rise in strong support of this bill to approve the U.S.-India Agreement for Peaceful Nuclear Cooperation. I’ve been a strong supporter of this increased cooperation between the United States and India, including peaceful nuclear cooperation.

I was an original cosponsor of the Henry Hyde U.S.-India Peaceful Nuclear Cooperation Act, which laid the foundation for the agreement that we are seeking to implement this week. I have worked hard to secure bipartisan support for that legislation and for the agreement on nuclear cooperation.

To ensure that legislation bringing the nuclear agreement into force could be adopted by the Congress this week, I introduced, with the support of our Republican leadership, H.R. 7039, which is an identical version of the text now before the Senate and the text that Chairman HOWARD BERMAN introduced last night and that we are considering right now.

Mr. Speaker, the U.S.-India nuclear cooperation agreement is not one that we would offer to just any nation. It is a venture we would enter into only with our most trusted democratic allies. I believe that stronger economic, scientific, diplomatic, and military cooperation between the United States and India is in the national interest of

both countries and that our increasingly close relationship will be the central factor determining the course of global events in this century.

Among the most important elements of this new relationship is India's commitment to cooperate with the United States on major issues such as stopping the spread of nuclear weapons material and technology to groups and to countries of concern.

In particular, Mr. Speaker, this nuclear cooperation agreement is essential in continuing to ensure India's active involvement in dissuading, isolating and, if necessary, sanctioning and containing Iran for its efforts to acquire chemical, biological and nuclear weapon capabilities and the means to deliver these deadly weapons.

It will also help secure India's full participation in the Proliferation Security Initiative, including a formal commitment to the Statement of Interdiction Principles, and it will be a major step forward in achieving a moratorium by India, Pakistan and China on the production of fissile materials for nuclear explosives.

In addition, in order to meet the requirements of the Hyde Act, India and the International Atomic Energy Agency have negotiated a safeguards agreement on several Indian nuclear facilities that will expand the ability of the IAEA to monitor nuclear activities in that country.

Mr. Speaker, these are but a few of the many benefits from our nuclear cooperation with India and the strategic cooperation between our two countries that have already taken root. I am gratified that we are finally considering this legislation so that Congress can approve it without delay.

I urge my colleagues in both the House and the Senate to approve this nuclear cooperation agreement with India overwhelmingly. By doing so, the United States and India will embrace one another in a strategic partnership that will prove to be one of the most principal guarantors of the security and prosperity of both countries in this new century.

I reserve the balance of our time.

Mr. MARKEY. I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. I thank the gentleman for yielding time.

Mr. Speaker, I oppose the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. This bill flies in the face of decades of American leadership to contain the spread of weapons of mass destruction. The bill does not include all of the safeguards and protections contained in the Henry Hyde Act of 2006.

A vote for this bill is a vote to approve a rushed process that has not allowed hearings, debate or amendment to this deal.

Most importantly, the India deal would give a country which has a dismal record on nonproliferation all of the benefits of nuclear trade with none of the responsibilities.

India has been denied access to the international nuclear market for three decades and for good reason. India is not a signatory of the nonproliferation treaty, and it has never committed to nuclear disarmament nor has it signed the Comprehensive Test Ban Treaty. India has misused civilian nuclear technology to produce its first nuclear weapon in 1974, and it continues to manufacture nuclear weapons to this day.

This deal will help India expand its nuclear weapons program. For every pound of uranium that India is allowed to import for its power reactors, this deal frees up a pound of uranium for its bomb program. I was in Pakistan this month, and it is clear that this deal will only increase the chances of a nuclear arms race on the subcontinent.

For all of these reasons, I urge my colleagues to oppose this bill and to promote a stronger relationship with India that does not come at the expense of our own security and that of our allies.

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Mr. BERMAN. Mr. Speaker, I am pleased to yield 1¼ minutes to the Chair of the Subcommittee on the Middle East and South Asia, someone who was involved in this issue since the first announcement of the joint declaration in the summer of 2005, which was the first time Congress was ever told about this issue, the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. I thank the chairman.

Mr. Speaker, I rise in strong support of this bill because it will give congressional approval to civil nuclear cooperation with India. Let me tell you what that means. It means that the IAEA will be able to inspect two-thirds of India's civilian nuclear facilities because those facilities will be under IAEA safeguards and all future nuclear facilities will also be under safeguards.

It means that India, for the first time ever, has committed to MTCR guidelines. It means that India, for the first time ever, will adhere to the Nuclear Suppliers Group guidelines. It means that we can send a clear message to rogue states, nuclear rogue states, about how to behave because it shows that responsible nuclear powers are welcomed by the International Community and not sanctions. It means that we can finally achieve the broad, deep, and enduring strategic relationship with India that all of us in this House support.

So if you wanted all of these things when you voted overwhelmingly for it 2 years ago, then vote for it again tonight.

There are two options before us today. One is to throw away all of the work that's been done and just keep the status quo. India would then pursue its national interests, as it's been doing, outside of the nonproliferation mainstream and we get to inspect nothing. The other is to make a deal

with India, and the United States and the International Community will get a window in perpetuity into two-thirds of India's nuclear facilities and all of its future nuclear facilities.

The choice is clear, Mr. Speaker. It's time for 21st century policy towards India, and it encourages India's emergence as a global nuclear power and solidifies our bilateral relationship for decades to come.

This bill is that new policy, and I urge everyone to support it.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this bill, H.R. 7081. By approving this nuclear agreement, an agreement with India, we will permanently and irrevocably undermine decades of nonproliferation efforts.

This agreement says that India, but no other country, can live outside the international nuclear control system. It sets a frightening precedent. If a country is unhappy about the rules on nuclear possession, it can simply go around them breaking them.

And what does it matter if India ignores international agreements? Any sanctions? Any punishment? No. Just a lucrative deal with the United States of America.

If we approve this deal, we lose our moral high ground, Mr. Speaker. Who are we to be telling any other nation to adhere to the rules when we subvert them ourselves? This is not about our relationship with the people of India; this is about a complete obliteration of the nuclear security regime.

The Bush administration is demanding we move with haste without looking back. Sound familiar?

I urge my colleagues to oppose H.R. 7081, stand up for national security, stand up for nuclear nonproliferation.

Ms. ROS-LEHTINEN. Mr. Speaker, I am so proud to yield 2½ minutes to the gentleman from California (Mr. ROYCE) the ranking member on the Subcommittee on Terrorism, Nonproliferation, and Trade.

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation. I just want to commend Chairman BERMAN and Ranking Member ROS-LEHTINEN's leadership on the issue.

This has been a long road. In the last Congress, I managed on the House floor approval of the Hyde Act, which was a legal framework for facilitating civil nuclear cooperation with India. And that was a tremendous foreign policy achievement of the last Congress. Failure by this Congress to push this agreement across the finish line, I'm afraid, would be foreign policy malpractice.

Indian officials have told me about their ambitious plans to expand nuclear power to fuel their growing economy with clean-burning energy through this source. And with this deal, the Indian nuclear industry will overcome international restrictions and they will reach their full potential to do this.

This deal, frankly, has consumed Indian politics. The far, far left in India sought to turn the nuclear deal into a referendum on India's relationship with the United States. They lost in that. Let's seal the deal today helping cement the new U.S.-India relationship.

And strictly speaking, this deal really isn't about the United States. The Nuclear Suppliers Group, an organization of 45 countries to control the spread of nuclear technology, okayed this agreement. That NSG decision represents the will of the international community to make the nuclear rules conform to the realities of India's energy situation.

Opponents are deriding the exception made for India as a blow to nonproliferation rules. But while this deal may not be a net gain for nonproliferation, neither is it a net loss because under the deal, India stays outside the NPT, but it separates its civil and military nuclear facilities, it gives the IAEA increased access to its nuclear facilities, and it continues its unilateral moratorium on nuclear testing. Indeed, Mohamed ElBaradei, the chief of the IAEA, supports the agreement. Sure it makes changes to the rules that were set down decades ago, but the world is not standing still. Critics can not ignore the security, political, economic, and environmental reasons, frankly, to support it.

Opposing this won't affect India. It will only hurt our relationship with India and U.S. interests. With the NSG agreement, other countries, notably France and Russia, can enter the Indian nuclear market—with a potential for up to \$100 billion in investment. It has been reported that India will soon sign their own nuclear cooperation agreements with these countries. Now U.S. companies, however, would be blocked out of India until Congress finally approves this agreement.

Mr. Speaker, either we continue to try to box in India and hope for the best, or we act to make India a true partner. This agreement works through a difficult nonproliferation situation to strengthen a very important situation.

India will be a major power in the 21st century. Let's approve this legislation.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I want to begin by acknowledging the fine efforts of my colleague and Chairman HOWARD BERMAN to approve this deal, and I find myself in reluctant opposition.

I believe our relationship with India is one of our most important. Our interests are inextricably linked, and our economies draw ever closer. In the past, that relationship has been strained by the issue of nuclear proliferation—India never signed the Nuclear Nonproliferation Treaty and continues to build nuclear weapons.

The agreement we vote on today began as a valiant attempt to bring

India into the nuclear mainstream while binding our business communities closer together. Unfortunately, it has ended with an agreement that falls short of either goal: the safeguards are not strong enough, the incentive for other nations to proliferate is too great; and while opening India's nuclear market to the world, it places American companies at a competitive disadvantage compared to the French and Russian firms.

Even worse, the deal is really no deal at all. The Indian government and the administration have been issuing contradictory statements about it for the past year. This is not a problem of each side interpreting the treaty differently. The two sides have apparently signed different treaties. The next time India has a new government, which could be as early as winter, it may withdraw from the agreement, and the net result of all of this negotiation will allow foreign companies to sell nuclear technology to India. No nonproliferation goals would be accomplished, no new business would be generated for American companies, and no new relationship with India would be achieved.

When it became clear that the real winners in this deal were the Russians and other nuclear powers that indiscriminately and irresponsibly sell nuclear technology around the world, why didn't the administration pull out? When the administration realized that India would not accept the deal that ended cooperation if it decided to test a nuclear weapon, a requirement of the Hyde Act, why did they continue to negotiate? When the administration realized this deal might undermine the MPT, a treaty that has succeeded in dramatically limiting the number of nuclear nations, why did they not take steps to strengthen other nonproliferation efforts?

Some proponents of the deal have said that it brings India into the nuclear nonproliferation mainstream.

Mr. Speaker, I urge opposition to the agreement.

Mr. Speaker, my friend and colleague from California, Chairman BERMAN, has worked tirelessly over the last year to make this deal better. He has been a great champion of nonproliferation in this House, and he has led many efforts to prod and question the Bush administration on the negotiations with India—pressing for a deal that would enhance our relationship with the world's largest democracy while protecting the global nonproliferation regime and our interests around the world. Unfortunately, the administration resisted many of his efforts and that of others, and I am forced to oppose the final package.

I believe that our relationship with India is one of our most important. Our interests are inextricably linked, and our economies draw ever closer. In the past, that relationship has been strained by the issue of nuclear proliferation—India never signed the Nuclear Nonproliferation Treaty, and continues to build nuclear weapons. The agreement we vote on today began as a valiant attempt to bring India into the nuclear mainstream, while binding our business communities closer together. Unfor-

tunately, it has ended with an agreement that falls short of either goal: the safeguards are not strong enough, the incentive for other nations to proliferate is too great, and while opening India's nuclear market to the world, it places American companies at a competitive disadvantage compared to French and Russian firms.

Even worse, the "deal" is not really a deal at all. The Indian Government and the administration have been issuing contradictory statements about it for the past year. This is not a problem of each side interpreting the treaty differently—the two sides have apparently signed two different treaties. The next time India has a new government, which could be as early as this winter, it may withdraw from the agreement, and the net result of all of this negotiation will be to allow foreign companies to sell nuclear technology to India. No nonproliferation goals would be accomplished, no new business would be generated for American companies, and no new relationship with India would be achieved.

So, I have a few questions for the administration, which have not yet been answered, and I think they're important questions to consider as we vote on this proposal.

When the administration realized that India would not accept a deal that ended cooperation if it decided to test a nuclear weapon, a requirement of the Hyde Act, why did they continue to negotiate?

When it became clear that the real winners in this deal were the Russians and other nuclear powers that indiscriminately and irresponsibly sell nuclear technology around the world, why didn't we pull out?

When the administration realized that this deal might undermine the Nuclear Nonproliferation Treaty, a treaty that has succeeded in dramatically limiting the number of nuclear nations, why did they not take steps to strengthen other nonproliferation efforts?

When it became clear that we couldn't get the assurances we needed to stem proliferation, why didn't we shift gears and produce a deal in renewable energy, information technology, or another area that would bring actual benefits to the American economy without harming our national security?

Some proponents of the deal have said that it brings India into the nonproliferation mainstream. But in fact, India remains free to test nuclear weapons, has not agreed to abide by the Nonproliferation Treaty, has not signed the Comprehensive Test Ban Treaty, and will only allow international inspectors access to a few of their civilian power plants. That is not the mainstream.

India has become a vital partner in a world that has grown dangerous and unpredictable. But tragically, an agreement in any other field of renewable energy would have brought us more, without seriously weakening our efforts to prevent a nuclear arms race in the Middle East and South Asia.

As a strong supporter of improving our relationship with India, but a firm advocate of nonproliferation, I cannot support this agreement, and I must urge my colleagues to oppose it as well.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to yield 2½ minutes to the gentleman from South Carolina (Mr. WILSON), an esteemed member of our Committee on Foreign Affairs and its Subcommittee on Middle East and

South Asia, and cochair of the Congressional Caucus on India and Indian Americans.

Mr. WILSON of South Carolina. Mr. Speaker, thank you for this opportunity to support the U.S.-India civilian nuclear agreement.

As cochair of the Congressional Caucus on India and Indian Americans, I am grateful for the bipartisan support of this agreement. The Senate Foreign Relations Committee vote was 19-2 this week. A vote in favor of the U.S.-India Civilian Nuclear Agreement will be a giant step forward in strengthening our Nation's partnership with the people of India.

Our two nations have a vested and shared interest in expanding our opportunities to compete in the global economy. This agreement will be a landmark accomplishment to do just that. After all, India is the world's largest democracy, and America is the world's oldest democracy.

In my home State of South Carolina, over 50 percent of our electricity is generated by nuclear power and has been for over 30 years. I know firsthand that this is an effective, clean, and safe alternative to traditional resources.

The U.S. Chamber of Commerce has estimated that this civilian nuclear agreement could create as many as 250,000 high-tech jobs right here in America. Moreover, Undersecretary for Political Affairs at the State Department, William J. Burns, has made his own estimates that we could see anywhere between 3- to 5,000 new direct jobs and 10,000 to 15,000 indirect jobs per reactor.

I am grateful for the leadership of President George W. Bush, Secretary of State Dr. Condoleezza Rice, and Prime Minister Manmohan Singh. Former U.S. Ambassador Robert Blackwill and current U.S. Ambassador David Mulford have worked professionally and successfully with Indian Ambassador to the United States, Ronen Sen.

Additionally, this agreement could not be finalized without the hard work of Ron Somers, President of the U.S.-India Business Council, former Assistant Secretary of State for Legislative Affairs Jeffrey Bergner, Deputy Assistant Secretary of State for Legislative Affairs Joel Starr, State Department Director of House Affairs Scott Kamins, White House members Brian McCormack and Vishal Amin, and South Carolina's Second Congressional District Chief of Staff Dino Teppara, and senior legislative assistant Paul Callahan.

This agreement, which is mutually beneficial for the people of India and America, have significant support from the 2.2 million Indian Americans who are successful members of American Society.

I want to thank my colleagues on the House Foreign Affairs Committee and staff members, particularly Chairman HOWARD BERMAN of California, Ranking Member ILEANA ROS-LEHTINEN, former India cochair ED ROYCE, and former co-chair GARY ACKERMAN.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. I thank the gentleman from Massachusetts for yielding time.

I also wish to thank the ranking member, Ms. ROS-LEHTINEN, for her leadership on this complex issue and her consideration of my differing view.

Mr. Speaker, given the enormous pressures this Congress is facing to solve urgent financial problems which threaten the stability and health of our economy, I must express my deep reservations about expediting approval of the U.S.-India civil Nuclear Agreement at this time.

While I fully favor strengthening ties, economic, social, cultural, and political with our Indian friends, why this most desirable pursuit hinges upon the sale of sensitive nuclear technology remains a mystery to me.

The U.S.-India Civil Nuclear Agreement sets a groundbreaking precedent that could open a floodgate of nuclear commerce worldwide that, absent rigorous conditions, safeguards, and oversight, could significantly damage the stability and integrity of U.S. and international nuclear nonproliferation efforts.

Just this week, the Russian prime minister announced that Russia was, "ready to consider the possibility of cooperation in nuclear energy" with Venezuela's President Hugo Chavez.

We should not rush this.

Mr. BERMAN. Mr. Speaker, I am pleased to yield 1 minute to the Chair of the Western Hemisphere Subcommittee of the Foreign Affairs Committee, the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank the chairman for yielding to me, and I rise in strong support of this legislation. For the United States, passage of this legislation will clear the way to deepen the strategic relationship with India, open significant opportunities for American firms, help meet India's surging energy requirements in an environmentally friendly manner, and bring India into the global nuclear nonproliferation mainstream.

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This agreement marks the culmination of a decade-long process of India's emergence on the national stage and the Indian Government's effort to steer a more pragmatic and realistic course in foreign affairs. We have common strategic interests with India, and this will enhance these interests.

India's energy demand is expected to grow nearly 5 percent per year for the next two decades. We should be a partner in that.

When the Congress passed the Hyde Act, we recognized India's refusal to transfer nuclear technology to others. These unique circumstances make this change in U.S. nonproliferation policy possible. We're now poised to reap the benefits of ending India's nuclear isolation.

Eligibility to civilian nuclear cooperation is an essential step toward bringing India fully into the global effort to prevent onward transmission of nuclear weapons know-how.

I urge my colleagues to support the bill.

Mr. MARKEY. I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT).

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Speaker, I welcome the prospect of peaceful cooperation and trade between the United States and India on matters of nuclear power. I voted for the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 because I thought it was a foundation on which we could build an energy relationship with India, one that would be mutually beneficial and, at the same time, reassuring to the international community.

Seeking energy solutions for the world's rapidly developing countries, India among them, is an admirable cause. But nuclear nonproliferation is also an admirable, compelling cause, and I am not frankly convinced that the bill we're considering on this fast track, with 40 minutes of debate, will promote India's nuclear energy goals without creating exceptions, gaps, and ambiguities that could hamper our efforts to police and stop the spread of nuclear weapons and materials.

Many serious questions need to be answered with respect to this legislation. Chief among them are questions like these: How well do these agreements comport with the letter and spirit of the Hyde Act and the Atomic Energy Act? Does the bill take the right course in constraining India from breaching the worldwide moratorium to undertake nuclear testing? Does the bill indirectly encourage India to enlarge its arsenal of nuclear weapons by allocating nuclear materials from reactor fuel to warheads? Does it provide international safeguards?

Mr. Speaker, it appears that the President is bent upon a hurried approval of this agreement. Frankly, I can find no convincing reason to treat this issue in such a hasty manner, particularly as we enter the waning hours of this session preoccupied with other issues.

The Atomic Energy Act contemplates a continuous 30-day period of congressional review, calling clearly for due diligence on issues of this gravity. I say we should abide by this solemn requirement, and if necessary, work our will and make improvements to the legislation before us.

The President may want us to move with dispatch, but the American people, on matters of this importance, want us to move with diligence and deliberation. Due diligence takes time and effort. In this instance, if we adopt this bill, we are not applying either.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield 1½ minutes to the gentleman

from California (Mr. ROHRBACHER) who is the ranking member of the Subcommittee on International Organizations, Human Rights, and Oversight.

Mr. ROHRBACHER. I rise in support of this historic effort to establish a partnership in helping India meet its energy needs, creating a prosperous country through clean and safe nuclear energy.

I would hope that the nuclear technology utilized by this project and by this pact will be based on the high temperature gas cool reactors, which are safer and will not produce a byproduct that can be built into a bomb. Now, if we use these reactors, that should take care of the proliferation concerns of our colleagues they are rightfully concerned about.

During the Cold War, unfortunate ideologically driven issues prevented us from a friendship and a close relationship with India. By cooperating in good faith to help India meet its energy challenge, we are indeed making it a better world and a safer world, and we now have an opportunity to have a new beginning with a country that was not in a good relationship with us in decades past.

This can be a mutually profitable relationship, and we can indeed embrace the world's largest democracy, as compared to during the Cold War when we had too close a relationship, which we are paying for now, with China, which is the world's largest and biggest human rights abuser.

So I gladly step forward and proudly step forward to be part of this historic effort to build good relations between the United States and India by utilizing safe and clean nuclear energy to build a more prosperous continent.

The SPEAKER pro tempore. All time for the gentlewoman from Florida has now expired.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentleman, my friend, from Massachusetts.

There will be a time when the history of the spread of nuclear weapons of mass destruction is written, and we will look back and see when the last thread of the international nuclear nonproliferation regime was shredded with this agreement. Now, we can talk at length about the details of this cooperative agreement. We can talk about what a good friend India is and how responsible they have been, but the history will say that with this agreement the world lost the last bit of an international tool to control the spread of nuclear weapons of mass destruction.

We will be left only with the ability to jawbone with our allies and to threaten our enemies. Countries will work out whatever deals they can and will, two-by-two.

If we really believe that nuclear proliferation and loose nukes are the greatest threat to world peace and se-

curity, as I do, then we should be holding on to every tool we can find to prevent that threat. We should be working with India to strengthen the international nonproliferation regime, not collaborating with India to destroy it. I urge a "no" vote.

Mr. BERMAN. Mr. Speaker, I'm pleased to yield 1 minute to a member of our committee, the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. I thank the gentleman. I thank him for his leadership here this evening.

On July 18, 2005, our government and the government of India entered into an agreement that we are here today seeing through. The joint statement laid the groundwork for the cooperation of our two countries for the engagement of our two countries throughout this next century. And today, we're taking the final step needed to put this agreement into place.

This agreement will end India's nuclear isolation and allow them to be brought into the nonproliferation tent with the rest of the responsible states who seek safe and efficient civilian nuclear technology.

Passage of the agreement is common sense. We are united in the world's oldest and the world's largest democracies in an effort to expand peaceful and responsible development of nuclear technology. If we expect India to be our ally in the 21st century, we must treat them as an equal, which is what this cooperation deal does.

India has never proliferated beyond her borders, unlike her neighbor, and I believe that this is an important relationship, an important aspect of this relationship that needs to be taken into consideration when evaluating this legislation before us.

I trust my colleagues will recognize what our future with India holds and vote for final passage of this historic legislation.

Mr. MARKEY. I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman.

As with many Members of this House, I am a strong supporter of India. I have had the opportunity to visit the country, meet with leaders, meet with people, and I think we could say we have a lot in common.

India's the world's largest democracy. Someone whose life I have admired, the life of Mahatma Gandhi, is synonymous with peace.

India is a strong ally in the quest for nuclear disarmament. It was the first nation to call for a ban on testing back in 1954.

Regretfully, I rise in opposition to this bill because I believe it threatens security in India and the Asian subcontinent and in the world. The U.S. should work with India on initiatives to eliminate all nuclear weapons for the safety of the global community and for the safety of every man, woman, and child.

The contradictory policies of this administration with respect to the nuclear nonproliferation treaty are obvious. The administration has repeatedly cited Iran for minor breaches of the nonproliferation treaty and has used these breaches to rally support for a military attack on Iran.

Yet the administration is undercutting the nonproliferation treaty by seeking to build new nuclear weapons, a major violation of the NPT, which states that nuclear weapon states should be seeking to phase out nuclear weapons.

Now the administration would like this body to approve a civilian nuclear agreement with India, despite India's refusal to join the NPT or sign the comprehensive nuclear test ban treaty.

India has nuclear weapons. It has no intention of limiting its nuclear weapons cache or production capability. The United States should be leading in nonproliferation and towards nuclear abolition.

This legislation undermines global nonproliferation efforts by endorsing India's refusal to sign the NPT. We are also extending a more favorable civil nuclear trade policy to Indian than that which is extended to countries in substantial compliance with the nonproliferation treaty.

Furthermore, by ensuring a foreign supply of uranium fuel to India for use in the civilian sector, India will be able to use more of its own limited uranium reserves to produce nuclear weapons.

Mr. Speaker, I urge defeat of this resolution.

Mr. BERMAN. Mr. Speaker, I'm pleased to yield 1 minute to the gentleman from American Samoa, ENI FALEOMAVAEGA, chairman of the Subcommittee on Asia, the Pacific, and the Global Environment.

Mr. FALEOMAVAEGA. I thank the distinguished chairman of our committee and also commend our distinguished ranking member of the committee for their leadership and support of this legislation.

Mr. Speaker, on every level it is long overdue and I believe it's long overdue that we should strengthen our relations with India. It has been stated many times before, India lives in one of the world's toughest neighborhoods, and the U.S. is the world's oldest democracy and the world's largest democracy. It is time for the United States and India to live together as friends and partners committed to promoting the values we share.

We have come a long way, and I am pleased that Congress will now vote in favor of supporting the use of India's civil nuclear cooperation which will lift millions out of poverty and will help us begin to address the global energy crisis which now confronts us.

Two major factors that I think I want to share with my colleagues and I think it's important in this agreement, the fact that it has the IAEA's approval and the fact that 45 members of the Nuclear Suppliers Group has also given approval to this agreement.

Mr. Speaker, I rise today in support of H.R. 7081, the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, and commend Chairman HOWARD L. BERMAN of the House Foreign Relations Committee for his leadership in bringing this deal to the floor for an historic vote. Without his support, this deal would have gone nowhere. I also want to thank the gentlelady from Florida, Ms. ROS-LEHTINEN, our senior ranking member of the committee, for her leadership and support.

Before agreeing to allow this bill to move forward, Chairman BERMAN insisted that U.S. Secretary of State Condoleezza Rice offer assurances that, in a change of policy, "the United States will make its highest priority at the November meeting of the Nuclear Suppliers Group (NSG) the achievement of a decision to prohibit the export of enrichment and reprocessing equipment and technology to states that are not signatories of the Nuclear Nonproliferation Treaty (NPT). I fully agree with Chairman BERMAN'S decision, and applaud him for making sure this agreement is interpreted in a manner consistent with the intent of Congress as expressed in the Hyde Act to further restrict international transfers of this sensitive technology.

I also want to pay tribute to our former and esteemed colleagues, the Honorable Henry J. Hyde and the Honorable Tom Lantos, who both served with distinction as chairmen of the House Foreign Relations Committee, and did everything they could to ensure that this day would come and that the U.S. would enter into a civilian nuclear cooperation agreement with the Government of India.

I also want to acknowledge the efforts of the Indian-American community which has been galvanized in support of this deal. Like House Majority Leader STENY HOYER said, "I commend Mr. Sanjay Prui, President of USIBA, for the important work he has done on the U.S.-India nuclear deal, in cooperation with the Congressional Taskforce on U.S.-India Trade."

As Co-Chair of the Congressional Taskforce on U.S.-India Trade, I believe, as Chairman BERMAN has so eloquently stated, we should have no illusions that India will give up its nuclear weapons, "so long as the five recognized nuclear weapons states fail to make serious reductions in their arsenals." But, like Chairman BERMAN, I also agree that this deal is a "positive step to integrate India into the global nonproliferation regime."

On every level, Mr. Speaker, I believe it is way overdue that we strengthen U.S.-India relations. As has been stated many times before, India lives in one of the world's toughest neighborhoods and, the U.S. as the world's oldest democracy and the world's largest democracy, it is time for the U.S. and India to stand together as friends and partners committed to promoting the values we share.

I also recognize, again, the important contributions of former Under Secretary of State Nicholas Burns who, as lead negotiator for this agreement, represented our Nation's interest with distinction. I am honored to have worked with Under Secretary Burns during a time when the deal was first proposed to the Congress.

I also appreciate the support of the Honorable Richard Boucher, Assistant Secretary of State for South and Central Asian Affairs, who, at the invitation of the Congressional

Taskforce on U.S.-India Trade, in cooperation with USIBA, was first on the Hill from the U.S. Administration to brief Members of Congress, staffers, professionals in the field, and the Indian-American community since India was given a waiver by the 45-nation Nuclear Suppliers' Group (NSG) on Saturday, September 6, 2008.

We have come a long way, and I am pleased that Congress will now vote in favor of supporting U.S.-India civil nuclear cooperation which will lift millions out of poverty, and will help us begin to address the global energy crisis which now confronts us.

Mr. BERMAN. Mr. Speaker, I'm pleased to yield 1 minute to a very active member of the House Foreign Affairs Committee, the gentlelady from Texas, Ms. SHELLA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. I thank the chairman very much, and let me quickly thank him for the thoughtfulness on this legislation, and as well the ranking member, Congresswoman ILEANA ROS-LEHTINEN.

I am a strong supporter of nuclear nonproliferation. I am a supporter of India. And I also believe in balancing the needs of India and our friend and ally against terrorism, Pakistan. But this is an important statement about our friendship with India, and I believe that this nuclear civil agreement is just that, 1.1 billion people who are attempting to invest and grow their economy.

The restrictions that we have are meaningful: no stockpiles; fuel supplies should match the nuclear reactor needs; no accumulation, as I said, of stockpiles; Congress having the right to disapprove by resolution any agreement that permits India to extract plutonium and uranium from U.S. fast reactor fuel.

It is important to note that this particular agreement is one that we should support. The Indian Government has put forward their best effort. They are our friend, and I ask my colleagues to support this legislation.

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Mr. MARKEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Massachusetts is recognized for 7 minutes.

Mr. MARKEY. Mr. Speaker, I rise today in strong opposition to this bill and to the U.S.-India Nuclear Deal.

Most people think that this is a debate about India. It is not. We are all friends of India, and we are all united in our view that the United States and India share a bright future of strong relations. This is a debate about Iran. This is a debate about North Korea, about Pakistan, about Venezuela, about any other country in the world that harbors the goal of acquiring nuclear weapons.

With this vote, we are shattering the nonproliferation rules. And the next three countries to march through the broken glass will be Iran, North Korea, and Pakistan. And there are others with their nose up against the window

getting ready as well. Flashing a green light to India sends a dangerous signal to all of those countries because these policies are interconnected.

We are now seeing the devastating financial consequences of years of Wall Street recklessness. The subprime mortgage pushers pretended that the laws of supply and demand no longer applied and that home values would always go up. Well, they were wrong. The Bush administration argues that breaking the nuclear rules for India will not lead to broken rules for anyone else. The Bush administration is wrong. And this deal will have serious consequences for our national security. Like the financial crisis that is now gripping the globe, this disastrous nuclear deal will come back to haunt us because there is no bailout for a nuclear bomb.

Nonproliferation experts tell us that India will be able to increase its annual nuclear weapons production from seven bombs per year to 40 or 50 bombs per year. That is absolutely a crazy situation for us to be engaging in. Does the Bush administration think that nobody is watching what we are doing? Pakistan is watching. Pakistan is watching its arch rival get welcomed into "the nuclear club." Does the Bush administration think that Pakistan will just watch India ramp up its nuclear weapons production and do nothing? Pakistan will respond. Pakistan warned us this summer that this deal, and I quote, "threatens to increase the chances of a nuclear arms race."

Right now, according to nonproliferation experts, Pakistan is building two new reactors to dramatically increase its nuclear weapons production. The first of these new reactors could come online within a year. Pakistan is essentially telling India, "We're in this game, too. We will match you step to step."

This is an all out nuclear arms race. That is what President Bush should be working on, not fueling it, but trying to negotiate an end to it. This is what a nuclear arms race looks like. We lived through one with the Soviet Union, now we are fueling one in Southeast Asia.

And who is Pakistan? A.Q. Khan, right here, the world's number one nuclear proliferator, a criminal against humanity, he is in Pakistan. Al Qaeda and Osama bin Laden, the people that actually attacked us on 9/11—and we know have attempted to acquire weapons of mass destruction—they are in Pakistan. And the Pakistani government, upon which we are relying to safeguard the nuclear weapons and materials, is dangerously unstable. We are feeding the fire of a nuclear arms race in the one country, Pakistan, where we can least afford to do so.

It's incredibly ironic that next here on the House floor we will consider a bill to increase sanctions on Iran for its nuclear program because the bill we're considering now makes an Iranian nuclear weapon much harder to

prevent. By breaking the rules for India, we're making it less likely that the rules will hold against Iran or anyone else.

Iran is looking at this deal for India and they're saying, "Where can I sign up?" "I want that deal." And where is it written that once these new rules are set up, that the Venezuelans can't cut the same deal with the Chinese, that the Iranians and the Russians will just continue merrily along the way? They will be pointing at us. They will be pointing at our explanation that we can cut a separate deal here with India. That is what we are establishing in this bill. This is the new regime for the world, not a comprehensive policy, but each big country who wants to cut a deal with a nuclear aspiring country can do so.

The Nuclear Nonproliferation Treaty is the bedrock of our efforts to prevent the spread of nuclear weapons. It is the foundation upon which all of our work rests. And this deal is ripping that foundation up by its roots.

Ladies and gentlemen, we are at a historic point. This deal allows for a country which is not a signatory to the Nuclear Nonproliferation Treaty to be exempted from it. It's an historic moment not only in the history of the United States, but of the world.

This nuclear nonproliferation regime that President Kennedy told us we had to establish has worked. In 1963, when he said, by the year 2000 we might have to count the countries that don't have nuclear weapons because they will be fewer than those that do unless we put a regime in place, was accurate. And if you look now, in 2008, almost no new countries have obtained nuclear weapons since 1963; quite an achievement. But here tonight, we're about to create a new global regime. And we will look back on this in the same way that we look back on the day when we began to allow subprime loans, and we will wonder how a global nuclear catastrophe was created, and we will point back to this evening.

I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield the remaining time to the gentleman from New Jersey (Mr. PALLONE).

The SPEAKER pro tempore. The gentleman is recognized for 1 $\frac{3}{4}$  minutes.

Mr. PALLONE. Mr. Speaker, I beg to disagree with my colleague from Massachusetts for several reasons. First of all, this is not about Iran. India's entire history with regard to nuclear weapons has been defensive, completely defensive, not offensive in the way Iran speaks and its President speaks.

In addition, India is very much like the United States. We know it's a democracy. We know there has always been very strict civilian control of its nuclear weapons. This is really not about nuclear weapons at all. It's about a civilian nuclear agreement between the United States and India.

And we know very much that India is similar to the United States; it seeks

energy independence, it does not want to be dependent upon Mid East oil and the Mid East countries in the same way that we are.

By putting this agreement together, by passing this agreement tomorrow, basically we will be making India part of our partnership and saying that we will share civilian nuclear purposes. We will strengthen not only our own independence from Mid East oil, we will also strengthen India's.

And the bottom line is that there is only a history of cooperation between the United States and India. India has a strong record—and I heard some of my colleagues say to the contrary, it simply is not true—India has a strong record of trying to create a situation of nuclear nonproliferation. It has been a leader, in fact, on that. And this agreement is simply going to strengthen that even more.

I think that we can trust India in the way that we can trust our own leaders. And the fact that we are going to work and have this agreement passed tomorrow—and I know that it will pass and it will pass on a bipartisan basis—will simply strengthen the alliance between our two countries, which is so important to both countries' future.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have reservations about the rapid way in which H.R. 7081, the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, was brought to the House floor without consideration and amendment in the Foreign Affairs Committee of which I am a member. However, despite my concerns and my steadfast commitment to non-proliferation, I rise in support of this legislation and our Nation's important relationship with India.

The United States' relationship with India is of paramount importance to our nation's political and economic future. With the receding of the Cold War's global divisions and the new realities of globalization and trans-national terrorism, we have embarked on a new era of promise, possibility and uncertainty. This means the United States bears an especially heavy responsibility to remain engaged in all regions of the world, with all nation-states. It is in the national interest for the United States to continue our policy of engagement, collaboration, and exchange which has served the nation well in the past, particularly in the South Asia region.

This legislation approves the U.S.-India Agreement for Peaceful Nuclear Cooperation, notwithstanding the procedures in the Atomic Energy Act and the Hyde Act. It declares that the Bush Administration's past statements are authoritative interpretations of the agreement, but also reiterates the policy directives in the Hyde Act that the U.S. will seek to prevent other nations from nuclear trade with India if U.S. halts U.S. trade to India because of a nuclear test. Furthermore, the supply of U.S. fuel supply to India should match India's reactor needs, rather than a stockpile to weather an international fuel sanction should India resume nuclear testing.

Importantly, this legislation ensures Congress retains the ability to review and disapprove (via a joint resolution of disapproval enacted within 30 days) a subsequent agree-

ment to permit India to extract plutonium and uranium from U.S.-origin spent reactor fuel. It re-establishes Congressional authority to legislatively reject (via a joint resolution of disapproval within 60 days) a Presidential decision to resume nuclear trade with any country that detonates a nuclear explosive device. It is also vital that this legislation requires the President to certify that the India Agreement is consistent with U.S. NPT commitment not to assist in any way in the acquisition of nuclear weapons.

Mr. Speaker, I visited India and met with India's Prime Minister in July of this year where we discussed how our two Nation's continue to collaborate economically, politically, and technologically. In this Nation and in my city of Houston, we have a large and vibrant Indian-American community which makes significant contributions to the vitality of our democracy. I am confident that we can work with India so that they can meet their energy needs through nuclear technology. Accordingly, that is why it is important that this legislation urges India to sign and implement an IAEA Additional Protocol for Safeguards, as India has committed to do. It also restricts issuance of U.S. export licenses under the Agreement (which has entered into force) until India completes the process of bringing its Safeguards Agreement with the International Atomic Energy Agency (IAEA) into force.

Mr. Speaker, this legislation also requires the Administration to keep the Congress fully and completely informed regarding new initiatives for civil nuclear cooperation agreements. It requires additional reporting requirements for an Annual Report to Congress on implementation of the Agreement required by the Hyde Act. It also requires a Presidential certification that it is U.S. policy to seek greater restrictions on transfer or uranium enrichment or plutonium reprocessing equipment technology at the Nuclear Suppliers Group (NSG) or with NSG governments before entry-into-force of the India Agreement. Finally, this legislation declares that the India Agreement does not supersede the Atomic Energy Act or Hyde Act.

Peaceful nuclear cooperation with India can serve multiple U.S. foreign policy objectives so long as it is undertaken in a manner that minimizes potential risks to the nonproliferation regime. This will be best achieved by sustained and active engagement and cooperation between the India and the United States.

This landmark legislation serves both our strategic interests and our long-standing nonproliferation objectives. We should heed the sage words of the Iraq Study Group which recommends engaging rather than abandoning the possibilities dialogue offers. Our engagement and subsequent abandonment of Iran has resulted in their current pursuit of nuclear technology. We should not make the same mistake in South Asia. We need to remain engaged with India and Pakistan so that they remain our most important allies rather than our adversaries.

We are on the path to fostering an enduring relationship of mutually beneficial cooperation with India. The new realities of globalization and interdependence have brought a convergence of interests between the world's largest democracy and the world's most powerful one. I accompanied President Clinton in his groundbreaking trip to India marking a new phase in the bonds that bind our two countries. This legislation builds on this relationship

by permitting an invigorated relationship in the field of nuclear cooperation, an area of critical importance given India's increasing energy demands.

I am hopeful that the nonproliferation measures in this legislation anchor India in the international nonproliferation framework by including: safeguards between India and the International Atomic Energy Agency (IAEA); end use monitoring of U.S. exports to India; and strengthening the Nuclear Suppliers Group, which are the group of countries that restrict nuclear proliferation throughout the world.

In addition, this legislation maintains Congressional oversight over the ongoing relationship of nuclear cooperation between the U.S. and India. We must continue to enhance our nonproliferation policy and bolster our argument that the rest of the world should agree to this robust inspection regime.

In conclusion, I support this legislation, and I urge my colleagues to do the same.

Mrs. BIGGERT. Mr. Speaker, I rise today in strong support of H.R. 7081, the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. This landmark legislation will ensure India's continued access to safe, clean carbon-free nuclear power while guaranteeing, through international inspections, that India's nuclear ambitions remain peaceful.

Mr. Speaker, I have been a strong proponent of nuclear power because it is an efficient and inexpensive way to meet our growing energy needs. In fact, my state of Illinois derives 50% of its power from nuclear energy. In my district, Argonne National Laboratories has been at the cutting edge of the next generation of nuclear power.

Most recently, they have helped to develop an advanced nuclear reprocessing technology called UREX, which literally re-burns spent fuel to extract more energy. At the same time, it improves efficiency and vastly reduces the toxicity, volume, and danger of the final waste product.

As the global appetite for energy continues to grow, nuclear technology will become increasingly important if we are to meet this unprecedented demand. This agreement will allow India, which has one of the fastest growing economies in the world, access to advanced nuclear technology. Cheap and abundant nuclear power will ensure that their economy can continue to flourish, without the pollution that plagues many other rapidly modernizing nations.

This agreement also has built in safeguards to ensure that sensitive nuclear technology is not compromised. India has agreed to prevent any third-parties from accessing their nuclear technology and to allow international inspectors into 14 nuclear sites around the country to enforce this agreement. These provisions will ensure that sensitive nuclear info does not end up in the hands of terrorists or rogue nations that would seek to do us harm.

The United States and India have a long history of cooperation stretching back over half a century, and I am pleased that we can continue this productive partnership. I urge all of my colleagues to support this historic legislation.

Mr. CONYERS. Mr. Speaker, I rise in opposition today to the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. If this body ratifies this agree-

ment today, it will be the first time that a country that is not a member of the Nonproliferation Treaty will have the benefits of nuclear trade without any of the responsibilities associated with possessing unstable, dangerous material on the planet.

Earlier this month, the Nuclear Suppliers Group made the ill-fated decision to approve an India-specific waiver from its guidelines requiring full-scope International Atomic Energy Agency safeguards as a condition for nuclear supply and trade. The decision ends the 34-year global ban on nuclear trade with India, a nation which has defied international norms regarding responsible and acceptable nuclear energy use.

Now, the Bush Administration is attempting bilateral deal with India that would exacerbate and codify the NSG's mistake. Under the deal, India would only have to separate its unregulated military and regulated civilian nuclear programs, not cease the pursuit of additional nuclear weapons. Additionally, India is allowed to keep 1,000 bombs worth of nuclear material outside of IAEA safeguards. In other words, by agreeing to provide material to satisfy India's civilian nuclear needs, America would be freeing up unregulated material for use in its military bomb production program.

How a deal like this brings India into conformance with international norms of state nonproliferation behavior—something the administration claims—is beyond me. Freeing up more unregulated nuclear material for bomb making doesn't sound like a safety measure. It sounds like a recipe for irresponsible use.

The economic benefits of this deal have also been greatly exaggerated by the Bush Administration. Russia and other regional states are already actively negotiating supply deals with India; leaving little opportunity for US energy companies half a world away.

However, more important than the potential economic aspects of the deal for our domestic energy production industry, or even the increased ability of India to create nuclear weapons, is the drastic effect the deal would have on the Nuclear Nonproliferation Treaty, one of the most sacrosanct and honored multilateral agreements in international law.

The NPT is the single most effective bulwark against the spread of nuclear weapons materials and technology. The treaty currently has 189 signatories and only four non-signatories. Under the treaty, NPT countries which possess nuclear weapons agree not to share weapon making materials or information. Similarly, NPT countries without weapons agree not to pursue these materials or information.

By agreeing to supply a nation that has not agreed to abide by these solemn pledges, this agreement would blow a hole in the NPT. Previously, our government required states to sign the NPT if they wanted to engage in nuclear trade with us. With this deal, the leverage inherent in that tradeoff will be gone. What moral authority will we or the international community have over Iran, or any other NPT signatory for that matter, if it actively seeks nuclear materials in violation of the treaty?

In the waning days of an administration that has shredded international law and our credibility around the world, why is this body prepared today to add to this tarnished legacy? Let there be no doubt, a vote for this bill is a vote for a more dangerous world. For the sake of peace and the sanctity of the rule of law, I encourage my colleagues to oppose the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the bill, H.R. 7081.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2008

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7112) to impose sanctions with respect to Iran, to provide for the divestment of assets in Iran by State and local governments and other entities, and to identify locations of concern with respect to transshipment, re-exportation, or diversion of certain sensitive items to Iran.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 7112

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008".

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Support for diplomatic efforts relating to preventing Iran from acquiring nuclear weapons.

#### TITLE I—SANCTIONS

Sec. 101. Definitions.  
Sec. 102. Clarification and expansion of definitions.  
Sec. 103. Economic sanctions relating to Iran.  
Sec. 104. Liability of parent companies for violations of sanctions by foreign subsidiaries.  
Sec. 105. Increased capacity for efforts to combat unlawful or terrorist financing.  
Sec. 106. Reporting requirements.  
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