Averting a Nuclear Nonproliferation Disaster: Where States Should Draw the Line in the U.S.-Indian Nuclear Deal Endgame

- Events

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DARYL KIMBALL: All right. If everybody could take their seats, turn off their cell phones and other electronic devices. Good afternoon. My name is Daryl Kimball. I’m the executive director of the Arms Control Association and I want to welcome you to our briefing this afternoon about the Nuclear Suppliers Group (NSG) discussion and debate regarding the proposal to exempt India from long-standing NSG guidelines that restrict nuclear trade with states that don’t agree to full-scope IAEA safeguards. This has blocked nuclear cooperation with India since its 1974 nuclear test explosion. [Editor’s note: The NSG did not adopt the full-scope safeguards requirement until 1992, although it had been previously instituted in 1978 in U.S. law.]

We, the Arms Control Association and my two colleagues here, are part of a loose, but diverse coalition around the world here in the United States and in over 24 countries that have been working for months now to try to adjust the terms of the proposed arrangement to exempt India from these international nuclear trade guidelines and, as we see it, to minimize the adverse impacts of this arrangement on the global nuclear nonproliferation system.

Now, in a mere two-and-a-half days, the 45-member Nuclear Suppliers Group will reconvene to consider a revised draft proposal from the United States to the NSG. This is a revised proposal because, on August 21 and 22, the group met to consider the Bush administration’s earlier proposal, which I think can be characterized as a clean and unconditional exemption for India. That proposal was rejected by NSG member states. Approximately 20 countries put forward some 50 [amendments] and suggestions regarding that proposal. Those suggestions and proposals numbered some 50 in number. So in the last few days, India and the United States have been negotiating a revision to that proposal that was transmitted to NSG member states some time this past weekend. As I understand it, countries are evaluating that new proposal.
But it is unlikely, in my view, that this new, revised version is going to be accepted by the Nuclear Suppliers Group at their meeting on the 4th and the 5th. I’ll be talking about that later in my presentation, which will come up last. Now, why is there an impasse?

Well, there are a number of states, not just the six, so-called likeminded states that have put forward proposed restrictions and conditions, but several other states that are concerned about giving India a clean and unconditional exemption from NSG guidelines. In our view, our basic message today is that it’s extraordinarily important for these states to stand their ground to protect the tattered nuclear nonproliferation system.

What we’re going to be doing today is to highlight what we see as the key problems with the overall arrangement. We’re going to be identifying steps, many of which have been put forward by these likeminded states and their allies, that could restrict and condition future nuclear trade with India to minimize the impact on the nonproliferation system. Then, we’re also going to be providing a summary analysis of responses that have come from the State Department to a set of questions that the House Committee on Foreign Affairs asked in October of 2007, which are just being released this afternoon by the House Committee on Foreign Affairs. These questions relate to the U.S.-Indian 123 Agreement, the agreement for nuclear cooperation between the United States and India.

Sharon Squassoni, who is a senior analyst here at the Carnegie Endowment for International Peace and a former Congressional Research Service analyst, is going to be describing her perspective on the State Department’s responses to the Congress’ questions. Henry Sokolski, who is the executive director of the Nonproliferation Policy Education Center, is going to review what is at stake and what might happen if the NSG grants India a so-called clean and unconditional waiver. I should also add that Henry is a member of the Congressional Commission on Preventing WMD Proliferation and Terrorism. So I’m going to conclude after they speak to review the status of the NSG debate and the rationale behind the proposed conditions and restrictions that a number of responsible NSG members are putting forward.

So, to begin, Henry, if you could come up here to the podium so the camera can catch your visage, Henry is going to talk about why this deal is not a good idea.

HENRY SOKOLSKI: Well, it might be a good idea, but there’s a lot at stake. I think what I would like to focus on is what’s at stake.

You know, former Secretary of Defense Harold Brown was once told that there was a problem with a sale that he was thinking of making on nonproliferation grounds and that, in fact, there needed to be much more staff work done on the nonproliferation issues. He said, staff work? Well, actually, you only need two people to do all of the work related to nonproliferation: one to count the number of countries and another person to wring their hands.

Now, I think that comment is a little inaccurate now because we have countless hundreds if not thousands of people in our government and in other governments counting the numbers and wringing their hands. So the numbers are bigger. But it does highlight why it would be useful to recap why anyone should care about this deal. I think it’s somehow taken for granted that either you don’t care or you do care; you don’t have to explain yourself.

First, roughly, is it September 4th and 5th that this meeting [will occur]? Remember those dates. They have the potential to be the 9/11 of nonproliferation, if you will. Georgia now has a date where we rediscovered history; 9/11 is very important for the war on terrorism. September 4th and 5th, potentially, could be a turning point dealing with nonproliferation, and I mean a negative one.

A friend of mine describes this problem with the India deal as roughly [the 1968 nuclear Nonproliferation Treaty] NPT RIP. There certainly are people in India that like to see this deal as just that. They talk about promoting the nonproliferation norms and the mainstream. They do not like the NPT though and they’d rather see that pushed aside. Now, it’s hard to see how going ahead with this deal, unless it’s conditioned more appropriately than it has been, how it can be anything but an engine of destruction of the nuclear rules that are based on the NPT. After all, what it is that the
Nuclear Suppliers Group is being asked to do is to supply nuclear fuel and fuel-making to a state that did not have a nuclear weapon in 1967 and therefore is not recognized by the United States, formally, to be a weapons state.

Now, that sounds like a lot of technicalities, but what it means is this; that group was established after the first Indian test in 1974 to make sure that they didn't get nuclear fuel-making technology. They're now being asked to approve a deal that roughly would authorize just such transfers, if not from the U.S., and we'll get into that in a moment, certainly for other countries like Russia and France. Certainly this is how India sees it. If you take a look at the deal, you take a look at the exemption that they're seeking, it's hard to see how that wouldn't in fact be the case.

Essentially, the suppliers that are supposed to show restraint to prevent non-weapons states from getting the means to make weapons are being asked to send fuel, roughly uranium, lightly enriched or otherwise, which India critically needs because, while it has plenty of uranium in the ground, it's lousy ore; it's very poor-quality ore. It's in the ground. They can only produce a certain number of hundreds of tons and it's less than what they need and want to run all of the reactors they want to run for power and all of the reactors they want to run to make bombs.

This deal is the fix. It supplies everything they need for their power reactors. It therefore leaves all of the other fuel that's indigenous available to make bombs. Now, roughly then, if you say the NSG should go ahead and supply this reprocessing and enrichment technology needed to make bomb-usable material, you have roughly the mother of all rule-breakers. You eliminate, essentially, the Nuclear Suppliers Group.

Now, why should we care about any of this? You can say, well, so what? Pakistan has been pretty vocal. It claims that this deal will lead to an arms race. They've already increased their reprocessing and enrichment and their plans to deploy power reactors. They want China to supply a 20-fold increase in power capacity in their country by 2030. India, meanwhile, has people who are experts in weapons and enthusiasts for weapons saying, well, maybe they need 400 weapons. I'm not saying they're going to get it, but there are people who are fairly serious who think that's the number they need. They have less than 100 now.

And then, what is China to make of all of this? One of the free [book] giveaways at the desk [outside the conference room], has a chapter in it describing how Pakistan and India might compete after the deal. It is very detailed. I recommend it. It's depressing. It's not something we should be encouraging.

Now, why? Well, as these three countries amble up or, god forbid, race up, what are we trying to do? Climb down. You can go to many of Daryl's events and they talk about climbing down. Well, if you climb down to let's say 1,000 weapons in the U.S. stockpile, which is one of the favorite numbers I hear, you're going to be very close to where people are racing up. That is not a comfortable world to live in. You want everyone to come down, not just us or the Russians or the French and the British. By the way, who knows what the Russians will do now?

So that crowded space also becomes a space in which having civil programs and particularly in places like India, China, and Pakistan start to take on military significance in a way that we have never thought about before. That also isn't great because there are a lot of people in this city and in Paris and in Moscow that think promoting “Atoms for Peace” and civil and nuclear energy is a great idea. It's an intensely more complex, competitive, and unstable world without at least some of these fig leaves being preserved.

Finally, I think U.S. credibility is at stake here with this deal. You're going to hear more from Sharon about these questions for the record, but, roughly, what Daryl and others—I think I signed onto one of the letters—said is, the executive branch, the State Department and the White House, is telling Congress what it wants to hear, that we would never sell them, the Indians, the means to make nuclear fuel because that could help their weapons program. Of course we would suspend assistance if they tested nuclear weapons. By the way, that's exactly what these questions for the record indicate that we told Congress.
But we tried to keep it quiet, keep it from the public, because we didn’t want the Indians to see this. More important, I think we didn’t want the members of the NSG to know about this because they’d say, well, if America doesn’t want to do these things, maybe we should even insist on it not happening. We’re kind of hoping the release of these questions for the record will prompt that result.

In fact, finally, you’ll see a letter; it’s very obscure: Harmon, Wilmot, and Brown. It’s out there on the table. The idea that we’ve been pushing that this deal is about reactor sales, at least from the U.S., is nonsense. This letter clarifies why it is: liability insurance. The Indians don’t have it. I’m not sure I blame them for not having it after the terrible experience of Bhopal. But because of that, the law firm that represents the U.S. nuclear industries says we can’t do business with India until that changes. It’s not about the change.

So the United States is saying lots of things to different audiences. It needs to get its story together. Daryl will conclude with what we need to do to condition the deal with regard to testing and what sanction or what restraint should be placed on supply after that and about nuclear fuel-making. There are many variants. I mean, I’m sure Daryl has once said, the key thing is to do something in these areas. I think, with that, I’ll hand it over to Sharon.

**KIMBALL:** Thank you very much, Henry. Sharon Squassoni.

**SHARON SQUASSONI:** Thank you, all. Daryl’s asked me to talk a little bit about the answers to the questions for the record that are being released even as we speak from the House Foreign Affairs Committee. Chairman Lantos, last year, submitted 45 questions in October of 2007 [to the State Department]. However, the State Department reportedly requested that the answers be held in confidence and I’m not sure whether they gave a reason for why that was. But I think when you take a look at some of the answers to these questions for the record, you’ll see that the likely reason is that some of the answers are very clear-cut in terms of U.S. responses to certain Indian actions. The [State Department’s] response came in February 2008. So it took them several months for them to put this together.

I think that part of the negotiation all along has been this dance of different perspectives or different interpretations. We saw that in the negotiation of the Peaceful Nuclear Cooperation Agreement [the 123 agreement]. We’ve even seen that a little bit in the negotiation of India’s safeguards agreement.

One thing that I would say as a former diplomat that you need to do is make sure that everyone’s expectations are the same going in. I think that these answers to the questions for the record will help that. Many of the questions are very technical in nature. I’m going to highlight just a few of what I thought were some of the interesting answers. The good news is that the administration’s interpretation of what we call the 123 agreement, the Peaceful Nuclear Cooperation Agreement, does reflect the requirement in U.S. law under the Atomic Energy Act to cut off supplies if India tests.

The implication of this is that it’s very important that the Nuclear Suppliers Group write this restriction—by restriction, I mean, if India tests again, nuclear supply should be cut off—into any decision that it takes in the coming weeks or months if the U.S. expects other nations to follow suit. The U.S. is bound by law to stop supply. There is a presidential wavier, but my guess is that’d be tough to implement. If the U.S. wants other nations to follow suit, it’s got to do this through the NSG.

Okay, so I’m just going to touch on a few issues. One is full cooperation. Indian officials have stated time and time again that full nuclear cooperation means cooperation in enrichment and reprocessing. This is uranium enrichment to make fuel for reactors. It can also be used to make bomb-grade material and reprocessing of spent fuel, which can also be used to recycle fuel and make more fuel or for plutonium bombs.

The U.S. answers in this area, and I quote, “As a matter of policy, the U.S. does not transfer dual-use
items for use in sensitive nuclear facilities. The U.S. will not assist India in the design, construction, or operation of sensitive nuclear technology through the transfer of dual-use items, and the administration does not plan to negotiate an amendment to the proposed agreement.” An amendment would be required if we were actually to engage in this cooperation. So at least in three different areas, the U.S. said, we’re not going to do this. That may be news to the Indians.

On termination for nuclear testing, Indian officials have stressed that the U.S. nuclear cooperation agreement does not, and I quote Prime Minister Singh from last year, “does not in any way affect India’s right to undertake future nuclear tests, if that’s necessary.” The foreign minister also told the parliament last year, there’s nothing in the bilateral agreement that would tie the hands of the future government or legally constrain its options.

In these answers to the questions for the record, the U.S. government stated quite clearly, we have a clear right for the U.S. to terminate nuclear cooperation and a right to require the return of our stuff—it didn’t say that [exactly] but I’m shortening it for you—in all circumstances required under the Atomic Energy Act, including if India detonates a nuclear explosive device. It talks about ceasing cooperation immediately and it also mentions that, in addition to ceasing cooperation immediately, it would also affect the supply of fuel and the right of return.

A related issue is fuel-supply assurances. Both in the nuclear cooperation agreement and in India’s safeguards agreement, there are several places, I guess in the preamble, where it mentions that India wants assured fuel supply, including what they call a strategic reserve of fuel for the lifetime of their reactors. Indian officials have stated, in many ways, their interpretation is that if that fuel supply is cut off, they have the right to take corrective measures. These corrective measures have never been defined and it’s funny, in the answers to the questions for the record, because these were done last year, the U.S. says, well, once these corrective measures, once that’s clarified, you know, we’ll be able to comment on this. Well, a year later, it’s still not clarified.

But the U.S. responses clearly indicate that the fuel assurances that the U.S. is undertaking are not legally binding and they are not meant to insulate India against the consequences of a nuclear test. So, number one, the U.S. says, well, these are important presidential commitments that we intend to uphold. Number two, the agreement itself doesn’t compel any specific cooperation. In other words, we wouldn’t have to make these fuel assurances or assured fuel supply.

Third, and probably the most important thing here, the question was asked to [the State Department], well, what is disruption of fuel supplies? The answer was, well, by that, we mean a trade war resulting in the cut off of supply, market disruptions, or potentially a failure of an American company to fulfill its contracts, not a nuclear test. In other words, the fuel supply is only good for those other kinds of disturbances in supply. If India tested, fuel supply would be cut off.

There are several other items, but I’m going to leave them for the Q’s and A’s once you have a chance to look at the actual questions. But I think the bottom line here is that there still exists a gap in the expectations or the interpretations of this deal, both from the Indian side and the U.S. side. One of the useful activities that the NSG can take up is to clarify what the Indians really do expect and nail down some of these things so that nuclear cooperation, if it does happen, can go forward in a stable and reasonable way. Thank you.

KIMBALL: Thank you very much, Sharon. We’ll be able to go back through some of those issues in the Q’s and A’s. I know that’s pretty complicated, but I think Sharon did a good job of summarizing. For those reporters out there, we can make some copies of these responses to the questions available to you.

Let me describe a little bit of our understanding, our analysis, of what is likely to happen later this week at the Nuclear Suppliers Group meeting and outline what we hope and think several responsible Nuclear Supplier Group countries are going to do. As I mentioned in the opening, on the 4th and the 5th, the Nuclear Suppliers Group is going to reconvene in Vienna, Austria, at the Japanese mission where they traditionally meet. They are going to be asked to approve a revised proposal from the United States that was negotiated last week with India.
According to my sources and a few press reports that are out there, it remains essentially unchanged from the clean and unconditional version that was presented and discussed at the August 21 and 22 meeting of the Nuclear Suppliers Group. It appears as though the Indian government and the United States government are hoping what will happen is that the Nuclear Suppliers Group countries will be satisfied with cosmetic changes and a statement from the chair that would substitute for a rational policy from the Nuclear Suppliers Group on future possible trade with India.

In addition, there seem to be two cosmetic adjustments that have been put into this revised proposal which, by the way, I have not seen, nor am I aware of anyone outside of the NSG government’s seeing this revised proposal. The first is a paragraph that states to the effect that all governments participating in the NSG shall inform one another on what kind of bilateral nuclear cooperation they are pursuing with India after the exemption is granted.

The United States, for instance, has made its nuclear cooperation agreement public. That came out in August 2007. Those are the issues that Sharon was just discussing. We’ve not seen any details about proposed Russian-Indian nuclear cooperation or French-Indian nuclear cooperation. So to some extent, this would be mildly useful, especially ahead of an NSG decision. But it does nothing to hold India accountable to any nonproliferation or disarmament commitments that it’s making.

The second cosmetic adjustment that I understand is in the revised proposal is a paragraph that states that governments participating at the NSG can call for an extraordinary consultation within the NSG on India “should circumstances require it.” Now, this is being characterized by the proponents of the revised proposal as a response to the call from several NSG states for a regular review mechanism of India’s nonproliferation record to assess to what extent it is meeting its safeguards requirements and other commitments that it has made.

However, this doesn’t do anything more than what’s already in the Nuclear Suppliers Group guidelines. There’s something called Paragraph 16 in the NSG guidelines that already allows for a special meeting of NSG states in the event that extraordinary events warrant. So this is not a concession of any kind; this is simply a restatement of something that’s already in the NSG guidelines.

In my view, given that the government of India has shown so little flexibility and given that the revised proposal was distributed only a couple of days before this next NSG meeting, it is highly unlikely that the NSG will reach a decision at this week’s meeting.

Now, let me just explain a little bit my understanding of the perspective of the several NSG states that have raised objections and put forward counterproposals on this exemption. Many states acknowledge India’s legitimate interest in diversifying its energy options, but several likeminded states, which is what they call themselves, including Austria, Ireland, the Netherlands, New Zealand, Norway, and Switzerland, as well as countries including Japan and possibly others—or I know others; I’m just not sure who—correctly recognize that the Bush approach is deeply flawed and, as Henry said earlier, would effectively end the NSG as a meaningful entity.

What’s behind their rationale? I think many of them understand correctly that any India-specific exemption from NSG guidelines would erode the credibility of NSG efforts to ensure that access to peaceful nuclear trade and technology is available only to those states that meet global nuclear nonproliferation and disarmament standards. So let’s look at India. Contrary to what I think can only be called the Orwellian claims of proponents, this deal would not bring India into the nuclear nonproliferation mainstream. A couple points: unlike 179 other countries, including the United States, who have signed the Comprehensive Test Ban Treaty, India refuses to sign the Comprehensive Nuclear Test Ban Treaty or enter into any other parallel, legally binding test moratorium.

India also continues to produce fissile material, unlike at least four of the five original nuclear weapons states, and probably also China. India continues to expand its nuclear arsenal. As Henry said, India continues to go up while most other nuclear-weapon states are going down or are maintaining their current status.
In order to maintain its option to resume nuclear testing, as Sharon was describing, India is seeking bilateral nuclear cooperation agreements to help provide it with strategic fuel reserves and lifetime fuel guarantees. Now, this is not only a problem as far as the NSG is concerned. But I should point out, it flatly contradicts a provision in the Henry Hyde Act, the U.S. legislation of 2006 that regulates U.S. trade with India, that was included in that bill by none other than Senator Barack Obama. That provision stipulates that U.S. fuel supplies to India should be limited to “reasonable reactor operating requirements.” The idea there is not to provide India with a multi-year fuel supply that could be used to overcome a cutoff in nuclear trade that might result from renewed nuclear testing.

In our view, the current proposal is still unsound. It’s still irresponsible and should be rejected. To summarize what some of the things are that could be done to minimize the adverse implications and that are being apparently advanced by several of these likeminded and other countries, the NSG states should, at a minimum, establish a policy that if India resumes nuclear testing or violates its safeguards agreements, trade involving nuclear items with India shall be terminated and unused fuel supplies returned.

Another one should expressly prohibit any transfer of reprocessing, enrichment, or heavy-water-related items or technology, which can be used to make bomb material. Third, regularly review India’s compliance with its nonproliferation obligations and commitments. Call on India to join with four of the five original nuclear-weapon states in declaring that it has stopped fissile material production and to call on India to transform its test moratorium pledge into a legally binding commitment.

These are the very conditions and restrictions that are in one form or another embedded in the Henry Hyde Act. From our perspective, if U.S. nuclear trade is going to be limited by these kinds of conditions and restrictions, it only makes common sense for the Nuclear Suppliers Group to adopt the same or very similar conditions and restrictions so that U.S. nonproliferation policies are not undercut by the Russians or the French or Malta or Japan or whomever. In addition, if the U.S. nuclear trading rules are significantly different from that of AREVA or some nuclear vendor in Russia, U.S. companies are going to be at a distinct disadvantage in addition to the fact that, as Henry pointed out, India has not yet agreed to this international nuclear liability convention.

Now, some Indian officials have said that they may walk away from the deal if the NSG establishes even these most basic requirements. From my perspective, if that’s what they want to do, so be it. This would still be a very generous proposal, given India’s nuclear history and its current policies.

We are urging and calling upon those NSG countries that I mentioned and others to stand their ground and to make sure that the NSG does not capitulate at this very sensitive time in the struggle against the spread of nuclear weapons. We’ll take your questions on any of these subjects that we’ve just discussed. If you’d just wait for the microphone to come to you and announce your name before you ask your question.

**QUESTION:** Thank you. Paul Eckert of Reuters News Agency. Primarily to Sharon Squassoni, not having seen the State Department responses yet, but in and of themselves, do these State Department answers pass muster with you in the sense that they clear up concerns you have about how the agreement was going to be implemented? You seemed to say at the outset that they were very frank in the sense that they were held back to avoid offense to India during their delicate negotiations there. But how about from the point of view of disarmament experts? Are they complete and compliant with U.S. law? Thanks.

**SQUASSONI:** Great question. In some areas, yes; in some areas, no. I think that this issue of corrective measures, which they could not resolve a year ago is still unresolved. And the IAEA safeguards agreement that India just negotiated doesn’t clarify matters at all. In general, however, though, I mean, the U.S. administration, has to follow the U.S. law. So it’s very important. I think it’s very good that they put these answers down on paper to clarify. I think it’s likely that the Indians will not be very happy with such frank answers.

There are a few areas, one on a strategic reserve of supply, that I think they kind of were a little circuitous in their answer. Basically, they said, well, I guess the Hyde act language was “reasonable
operating requirements.” Their response was, well, nobody discussed what “reasonable operating requirements” were and, you know, this might change. And, you know, a strategic reserve will depend on all kinds of commercial issues and, for example, how much storage capacity does India have to put this fuel. You need a lot of storage capacity. So it’s a mixed bag, I think. But at least on the testing issue, I find myself satisfied.

KIMBALL: Yeah, I think Henry has a response. Let me just also remind everybody that these questions were sent, as I understand it, to the State Department in October 2007. That was three months after the U.S.-India nuclear cooperation agreement was concluded in [late July]. They were delivered in February so I think there are going to be many more questions that Congress is going to ask. These were questions that were written basically a year ago. I think it’s not unexpected that they don’t, as Sharon said, fully answer all the questions that are still out there. Henry?

SOKOLSKI: I have a slightly different take. I did have a chance to look at these things over the weekend as well. I think the operative phrase that rings loudest in what Sharon shared with us is, “as a matter of policy.” [I've] spent a fair amount of time with the history of the previous deals that we've cut, which were very instructive. And Robert Zarate has worked with me and is taking a lead in writing a history of some of the Wohlstetter's work. One of them is called “Buddha Smiles.” I recommend it. It’s on our website. It is a history of the prevarications, vagueness, and confusion associated with the first set of nuclear deals. It’s not a pretty picture. Some of the arguments will rhyme with the kinds of debates we’re having now. So from an experience standpoint from history, I think we need to be worried about what any administration thinks, since it goes away and there are other administrations after it.

Second of all, as someone who has worked in the government, I have to tell you, I don’t think that any of the answers suggest they would like to be held to what they are saying in print. In other words, they don’t want a law that tells them that they have to see things a certain way. It’s the reason they’re fighting these rules in the NSG. That suggests that things could be subject to change.

I leave you only with this other additional thought: there is no way that this deal could be approved by Congress in its current form without violating the Hyde Act. Once you violate a law, you’re on your way to interpreting and reinterpreting all sorts of things willy-nilly. It’s the desire for Congress to uphold the law that it passed a good deal of the effort on this panel and many other people. I’m pretty sure that Mr. Berman sent his note to Secretary Rice precisely because he took his pledge to uphold the laws of the land and the Constitution seriously. But you cannot go ahead with this deal unless it is conditioned more without it violating the Hyde Act. So I wouldn’t take the say-so of these Q’s and A’s even when they’re good until you have something in print that is binding.

KIMBALL: All right, any other questions? Yes, sir?

QUESTION: Thank you. Mike Miyazawa. What is the real objective of the administration? Is it nuclear business or to bring India into the U.S camp as a counterweight against China? What is the single biggest, most important objective of the administration?

KIMBALL: That’s a very good question. I’ve been asked that question for about three years. I still don’t really know the full answer. There are a lot of, I think, theories about why. I think there are different reasons, depending on which part of the administration you’re talking about. I mean, Sharon and Henry could talk about this as knowledgeable as I can. I think there are multiple things going on here. One is simply that the Bush administration is looking for a foreign policy “victory.” Another is that the Bush administration wants to establish stronger strategic ties with India. But the U.S. already has very good strategic ties with India, even without this deal. Maybe they would be even better without the deal.

There is also a strong interest in increasing U.S. defense sales to India. One of the unspoken reasons is that it might help counter Chinese influence in Asia. But personally, I think that that is an extremely flawed theory, given that India is a very independent country that is not going to compromise its foreign policy in order to help Washington on some particular issue vis-à-vis China.

Those are all some of the reasons that have been put forward. Some of the other reasons, such as
hoping to reduce the amount of carbon emissions in the atmosphere, I think, have been wildly inflated given that India’s nuclear industry has barely performed in the last four decades. I don’t think it’s going to meet its projections to build all the reactors it is projecting. India’s carbon emissions could be reduced much more significantly through other means other than building a large number of nuclear reactors.

But that’s just a quick review. Do you all have anything else? Henry?

SOKOLSKI: The answer is they asked for it. Clearly, the answer is the Indians asked for it. They like reactors and they like rockets. They like reactors and rockets. I used to work for an assistant secretary that had to travel to India occasionally. He said, whenever I get on these topics with Indians, I try to change the subject to computers or something else because it’s neuralgic. I mean, they just simply love talking about getting more of these things.

We actually bargained to try to get the Indians to send troops to Iraq and then reconstruction funds. They said reactors, rockets. They didn’t send anyone to Iraq and they didn’t give any money for reconstruction. But they kept asking for reactors and rockets. It was thought that if we gave them reactors and rockets, somehow things would improve and that indeed there would be a strategic partnership that would be built on—if not American sales of these things, at least Russian and French sales. And that would be good enough to promote better commercial, military ties with India and the U.S.

I think it was a mistake. The reason it’s a mistake is I remember when they did this, the administration really did not want to hear what the staff had to say. The people, you know, at the director level who actually knew something about nuclear and space cooperation. They would have said, hey, don’t go in here. The reason why is there is so much history of misunderstanding that relations have gotten worse when you focus on these topics. Roughly, I think that’s where we’re headed here.

Make no mistake, there are better ways to cooperate. I would suggest without getting into anything at length, the place I would start is perhaps an ironic place. If you go to the law that the United States passed in reaction literally to the first Indian test, it’s called the Nuclear Nonproliferation Act of 1978. There is a Title V in there. It says we should promote and work with other countries to develop non-fossil fuel, non-nuclear fueled energy sources. It has never been enforced, not by Democrats, not by Republicans; even though I think there are quite a number of programs that we have with other countries in these areas.

It might be time to start thinking about implementing that law, because I can assure you there are many, many more cost-beneficial ways of promoting energy development than nuclear power in India. That’s for sure.

SQUASSONI: I would just add one brief point that there are two questions in these answers that relate to what are the economic benefits that the U.S. expects to get from this deal. The answer is very little. Both because of the issue of liability and, when asked, India has made no commitment to buy reactors from the U.S. They are very interested in uranium to fuel their heavy water reactors. They’re interested in French and Russian reactors.

I know your question wasn’t, you know, was it U.S. nuclear business? I’m sure the global nuclear industry is looking at India and China and salivating for all the reactors they might be able to sell, but not for the U.S. As a matter of fact, in India, at one point, this agreement was called the 126 agreement not the 123 agreement. That was for the 126 fighter aircraft that India would at some point purchase from some lucky defense contractor.

KIMBALL: Any other questions? Yes, we’ve got a couple here. Why don’t we go to the person in the middle?

QUESTION: Thank you, Joanne Thornton with the Stanford Group Company. And I wondered what happens on Capitol Hill in the unlikely event that the Nuclear Suppliers Group can come to a consensus this week. I’ve seen so many different renditions of how many legislative days are
required for the package to lay over before the Congress. Can you clarify that? Thanks.

KIMBALL: Yeah, before Sharon clarifies that, let me just also just put one other important piece of information on the table, which is that we mentioned Howard Berman, who is the chairman of the House Committee on Foreign Affairs, wrote an Aug. 5 letter to Secretary of State Condoleezza Rice about his interest in seeing the Hyde act restrictions and conditions written into the NSG guidelines. He also said that even if the NSG makes its waiver and the U.S.-Indian 123 agreement is sent to Congress, immediately after we reconvene on September 8th, it is not likely that Congress will have sufficient time to fully consider all the issues and details surrounding the agreement.

He goes on to say that any effort to consider the agreement outside the requirements of current law—as Henry said the current proposal at the NSG is not consistent with the requirements of U.S. law in that it does not contain the same restrictions and conditions—will be “impossible” if the administration’s NSG exemption fails to include the Hyde act conditions. So we have at least one key member of the Congress saying that. It will be impossible. You can interpret what that means if the NSG decision does not meet or is not parallel with the Hyde act.

In addition to that, the clock is ticking. And for that, Sharon?

SQUASSONI: The clock is ticking. The most optimistic counting of the days if this agreement were to be presented to Congress on Monday the 8th, that would only give 19 days until September 26th. It’s not out of the question that we’ll have a lame-duck session, probably unlikely; 19 days is not enough time because the agreement must, by law—no way around it unless they pass another law—must sit before the committees for 30 days, no less than 30 days. So what happens then is if there aren’t 30 days in the session, next year, we have a new Congress. The agreement has to be resubmitted.

But that assumes that all the ducks are in a row. Quite frankly, they’re not, because there are, I think, seven requirements that the Hyde act says the whole package has to meet. One of them is that India has made substantial progress toward negotiating an additional protocol with the IAEA. Now, this is a safeguard agreement strengthening—the U.S. has one, although I don’t think it’s in force yet—additional [IAEA] access and information; all the things that the IAEA inspectors now get in this new agreement. [Indian and IAEA negotiators] met maybe once. They’re not going to make that by next Monday. I don’t even think that particular one can be finessed. Some of the other requirements can be finessed a little bit.

Really, this is not going to be taken up by this Congress. It will have to wait until the next Congress.

SOKOLSKI: Looking forward, a lot of people in the United States like to think about, well, what happens if Mr. Obama becomes president or Mr. McCain becomes president? We can talk about that. What Americans don’t like to think about is what happens in India? They’re going to get a new government.

Now, the people that are opposing the current government say they want to renegotiate the agreement. I have to tell you, my hunch is it isn’t to include all these conditions. I think this thing is very much in play. It suggests to me that when the Indians say, well, we can’t possibly do this and we can’t possibly do that, it kind of suggests either they’re not that interested in getting this deal or they’re still bargaining. If there are any Indians that are out there that are in favor of this deal, I would urge them to actually think long and hard about maybe agreeing to some conditions because these are not that onerous. They really aren’t. If they don’t, well, the new administration they have to worry about probably isn’t Obama or McCain, it’s a non-Congress-led government in India. My hunch is that that’s the reason why these dates, 4th and 5th of September, are going to be remembered at least by people who write histories of nonproliferation.

KIMBALL: I agree with Henry. One other point that I think is important to emphasize that I’ve been talking about for several days is that the conditions and restrictions that the like-minded responsible NSG countries are talking about, I don’t think they can be addressed through creative language, through wordsmithing. These have to be clear, meaningful guidelines in the NSG policies that apply to all of the NSG states. They can’t be interpreted differently by one state or another. They have to
clearly apply to all these states. Otherwise, these like-minded states, I don’t believe, are going to be satisfied and are going to continue to block agreement on anything less than what they’re looking for.

Are there any other final questions before we adjourn this afternoon? Yes?

**QUESTION:** (Inaudible), Voice of America. You just said that there will be a new government in America and there will be one in India as well very soon. So what do you say to the fact that if at all, India just goes ahead and tries a deal with Russia or France and they have been really positive about that? So what do you say to that?

**KIMBALL:** Well, the rules are quite clear. The Russians and the French have said publicly that they’re not going to enter into bilateral agreements with India on nuclear cooperation until and unless the NSG approves a waiver that allows them to do so.

In addition, India still has to sign the safeguards agreement that was approved on August 1st. Russia has, in the past, violated NSG rules by supplying India with nuclear fuel even though the NSG guidelines have up to this point barred that. So theoretically, it’s possible that Russia may simply chuck the NSG rules and go ahead. But I don’t believe that will be the case. In fact, I think Russia may in fact be supportive of some of these restrictions and conditions that are proposed by Ireland, New Zealand, and others. So I don’t really think that’s a realistic possibility. I think the Indian government fully understands that. Henry?

**SOKOLSKI:** I don’t know. I’m not as sure. I do know this. The French are not quite as keen to put their nuclear thumbs in America’s eye. The Russians? That’s a special case, always a special case. The Indians, however, and the Russians, need to be careful. You can do this a little. But you have relations not just with America but you have relations with Pakistan. You have relations with China. And what these countries do matters a lot to a sensible peaceful prosperous Southwest Asia as well. They will game it. You can count on that. They will game it.

So, one of the reasons these rules are helpful—I know many Indians find them nothing but meddlesome—is it reduces the need to keep looking over your shoulder and people gaming all these things for possible military purposes.

Finally, I can only urge one other thing. America’s relations with India depend primarily on the movement of people, money, and trade. There is so much that can and needs to be done in this area. Yes, energy technology as well, but probably not nuclear; I can’t imagine making a dime investing in that.

But it seems to me that there is plenty of work and plenty in the original agreement that does not pertain to rockets and reactors that is pretty important to pursue. I would think it would be a big mistake if we forgot what else we agreed to.

**KIMBALL:** All right, yes, sir? Microphone, please, so we can record this for all time. This better be good, Eric. (Laughter.)

**QUESTION:** Today, in the *People’s Daily* in China, the Chinese government is coming out against the India NSG exemption. What do you make of that? Several of you mentioned the role of China in all this. Is this really a doorstop for this?

**SOKOLSKI:** This gets to the point of gaming. I don’t think the Chinese want to be the primary spoilers for this deal. On the other hand, if they see others that are willing to at least condition it, I don’t think they want to hold back. I mean, they would prefer a world in which the rules make it easier for them to know what to do with regard to nuclear trade for India and Pakistan, which is a real nasty brew of trouble for them. Oddly enough, I’m not sure the Chinese are totally against these rules. They could see how they might help them.

But I would say that they are at least cheering for one side right now, which is interesting. Don’t expect that to stop if people come to the conclusion to push the rules aside and start doing deals
with this country or that country. China will continue to try to maneuver. That China agreed to sell nuclear items not just to Pakistan but India tells you just how playful they can be. They’re easy to underestimate. That’s a mistake to do.

KIMBALL: I’m not quite sure what it means. But I think it’s possibly a sign that the deal is in deeper trouble than the government in New Delhi thinks it is. Any other questions?

Well, I want to thank everyone for attending. I want to just underscore our basic message today, which is that, as Henry said, [this deal is] a potential nuclear nonproliferation 9/11. It’s very important for world leaders who are serious about the nuclear Nonproliferation Treaty and the rules and standards that govern nuclear trade and commerce to stand up and stick to some core principles to make sure that this is not a further dent in the already damaged nuclear nonproliferation system. Thank you very much. (Applause.)

END

Attachment

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