DARYL G. KIMBALL: Good afternoon ladies and gentlemen. If I could ask you to give me your attention. Thank you very much.

Welcome to the second part of today’s program. It’s an honor to have so many friends and colleagues with us here today for ACA’s annual membership luncheon. I hope those of you who were downstairs enjoyed the morning session which was certainly a full meal in of itself and I hope you’re enjoying our California-style lunch.

We have a California-style speaker today, who I’m pleased to introduce to you. Howard Berman, congressman from California’s 28th District, is a senior member of the House Committee on Foreign Affairs. I think you’re the second ranking Democrat right now, correct? Since he joined the House in the 1980s, he’s been one of the leading, though I think unsung, heroes for nonproliferation in the Congress. As the Almanac of American Politics put it—always good to quote the Almanac of American Politics—“There are few House members who’ve made such an imprint on legislation in so many areas as Howard Berman.”

I know that from personal experience; working with his office last year on the much discussed and debated Indian nuclear legislation that he took the lead and offered some alternative legislation to the president’s proposal. He pursued this in a quiet and steady fashion. In the end, if you scrutinize the 50-page or so long piece of legislation, you’ll notice that there are important elements from Congressman Berman’s alternative bill that were eventually incorporated into the final bill that could be the saving grace of our effort to turn this nonproliferation lemon into some lemonade.

In 2005, Howard Berman also was the cosponsor of a bipartisan resolution, H. Con. Res. 133, which we’ve discussed at Arms Control Association events before. This was a vision for how the nuclear Nonproliferation Treaty (NPT) could be strengthened that was put forward just before the 2005 NPT Review Conference. That resolution was unfortunately not adopted by the full House and Senate. But some of the recommendations of that resolution appear in the op-ed in The Wall Street Journal that we’ve discussed at this morning’s panel that was written by Bill Perry, Henry Kissinger, George Shultz, Sam Nunn, and others. I think Congressman Berman is going to be making some reference to that op-ed today and what it means for what the United States and the Congress should do to strengthen the U.S. government’s nuclear nonproliferation approach.

We thank you, Congressman Berman, for coming to address us and we look forward to your thoughts about what this new Congress can do to lead us forward and to provide some new vision and ideas for dealing with the multiple proliferation threats that we have today. We look forward to your
REP. HOWARD BERMAN (D-Calif.): Well, thanks very much, Daryl. Your reference to being second in line reminds me of Tom Foley’s old story that when you’re in Congress and you hear that a member of your party, on your committee, more senior than you, has gotten sick, your first question is, is it serious? (Laughter.)

I’m happy to be here today, particularly because the Arms Control Association has a wonderful reputation. I have great respect for it, particularly because I used it so extensively in dealing with Daryl on the Indian nuclear cooperation legislation. You were part of the group that helped play an important role in educating me and other members and staff on a variety of very complex issues. While the legislation didn’t exactly end the way you wanted—my guess is you didn’t want it—your efforts helped make a bad bill better. Although, on balance, I think it’s still probably a bit of a lemon.

Unlike the administration’s initial proposal to implement the deal, the version enacted into law requires Congress to approve the final nuclear cooperation agreement with India by an affirmative majority vote. Before that vote takes place, the Nuclear Suppliers Group must approve an exemption for India, and India and the IAEA must complete a safeguards agreement.

The bill now includes language that prevents the president from waiving key portions of the Atomic Energy Act and includes a provision that terminates nuclear cooperation if India transfers nuclear or missile technology in violation of Nuclear Suppliers Group (NSG) or Missile Technology Control Regime (MTCR) guidelines.

Finally, we got 184 votes—far more than I ever expected—for an amendment I offered to condition the exports of nuclear fuel on India’s willingness to halt production of fissile material. Given the strong opposition of the administration, given the tremendous investment by the Indian-American community in passing the legislation and keeping that kind of an amendment out, we really did much better than I think almost anyone thought. Based on my observation of the administration’s negotiating strategy with the Indian government, I think we might want to consider negotiations as an additional outsourcing opportunity, or that’s what we did in this case.

But as a result of this deal, India will be able to increase the size of its nuclear arsenal, since it will no longer be forced to use its scarce domestic uranium reserves to generate electricity. In response, China may push to cut a similar deal with Pakistan, which could further destabilize South Asia. But those are only two of the many nonproliferation challenges we face today and some of them are much more urgent.

North Korea’s launched nuclear-capable missiles, withdrawn from the NPT, conducted a nuclear test, and, some believe, may test again soon. Iran continues to enrich uranium in defiance of the international community and, if it continues on its current course, could have the capability to build a bomb in just a few short years.

Deeply concerned about the prospect of Iran becoming a nuclear power, other countries in the volatile Middle East, including Turkey, Egypt, and the Gulf States, have expressed interest in nuclear technology. Tom Friedman sort of crudely says, if there’s going to be a Shiite bomb, there’s going to be a Sunni bomb.

A. Q. Khan’s nuclear black market opened up a whole new dimension of nuclear proliferation. Most troubling of all, the same terrorists that attacked us on 9/11 are dedicated to acquiring WMD and, unlike a state, can’t be deterred. Many of the people who have been dealing with these issues for a long time warn that the nonproliferation regime is teetering on the brink. Jessica Matthews, I think this is her base, recently remarked that the nonproliferation regime that has served us extremely well for years is today on the verge of collapse. The Bulletin of the Atomic Scientists just announced that they’re moving their hands on their doomsday clock two minutes closer to midnight.

But for me, the stunning development, which has been referenced already by Daryl, was the recent statement by Henry Kissinger, Bill Perry, George Shultz, and Sam Nunn in The Wall Street Journal, arguing for a totally new paradigm. They urge us to transform our entire way of thinking about
nuclear weapons. They call for a rekindling of the vision of Reagan and Gorbachev at Reykjavik. I’m just going to quote it because before I knew we were going to talk about it, I had decided to quote it: “Nuclear weapons today present tremendous dangers, but also an historic opportunity. U.S. leadership will be required to take the world to the next stage, to a solid consensus for reversing reliance on nuclear weapons globally as a vital contribution to preventing their proliferation into potentially dangerous hands, and ultimately ending them as a threat to the world. Nuclear weapons were essential to maintaining international security during the Cold War because they were a means of deterrence. The end of the Cold War made the doctrine of mutual Soviet-American deterrence obsolete. Deterrence continues to be a relevant consideration for many states with regard to threats from other states. But reliance on nuclear weapons for this purpose is becoming increasingly hazardous and decreasingly effective.”

They end by saying, “reassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal would be, and would be perceived as, a bold initiative consistent with America's moral heritage. The effort could have a profoundly positive impact on the security of future generations. Without the bold vision, the actions will not be perceived as fair or urgent. Without the actions, the vision will not be perceived as realistic or possible. We endorse setting the goal of a world free of nuclear weapons and working energetically on the actions required to achieve that goal.”

More astounding than what they said is who said it. Kissinger, I remember him as a college student and I always assumed that Dr. Strangelove was some composite of Henry Kissinger and Herman Kahn. (Laughter.) George Schultz, I still have an image of George Schultz that’s probably an apocryphal one, but he and Reagan’s other advisors grabbing Reagan by the shoulders as he left that room in Reykjavik exclaiming, you’ve agreed to what? (Laughter.) Go back in there and tell Gorbachev your fingers were crossed. As I recall it, Sam Nunn in the 1980s was closer to build up to build-down than to a nuclear freeze.

Everything we do on nonproliferation, it seems to me and what it seems to me they are saying is, would be more effective if we fundamentally change our perspective. If we continue on our current course, we may be able to delay the complete erosion of the nonproliferation regime, but unless we come to grips with this new paradigm, I think our efforts will ultimately fail. In that context, there are some critical things we should do to shore up the global nonproliferation system.

First, we must dedicate ourselves to the goal of eliminating all nuclear weapons, as we are obliged to do under Article VI of the NPT. While achieving this goal is not feasible in the short run, there’s no reason why we can’t start moving in that direction right away. Under the Strategic Offensive Reductions Treaty, SORT, concluded with Russia in 2002, the number of our deployed strategic warheads will drop from about 10,000 in 1990 to less than 2,200 by 2012, a reduction of 80 percent.

But it’s clear we can live with even fewer weapons as we pursue our goal. An Arms Control Association report from 2005 recommends that 500 operationally deployed weapons and 500 more in ready reserve are enough. Within the next couple of years we need to start thinking seriously about extending the verification mechanism for SORT, which is currently set to expire in 2009 along with the START Treaty. That would be an excellent opportunity to focus on further reductions.

Second, the United States should take the leadership role on the Comprehensive Test Ban Treaty (CTBT). As you know, the Senate rejected the treaty in 1999, but since that time, we’ve become much more confident in the ability of our scientific establishment to maintain the safety and reliability of what will remain of our nuclear stockpile. With Democrats back controlling the Senate, though by a very small margin, we should diligently pursue the political feasibility of reconsidering the treaty.

With folks like Kissinger and Shultz on our side, perhaps the Bush administration will add this issue to the list of mistakes they are willing to remedy. The CTBT can’t enter into force until it is signed and ratified by 44 specific countries, including India and Pakistan. Strong U.S. support for the treaty and the ultimate goal may persuade those countries to get onboard. But if it doesn’t, we might want to consider the possibility of working with the P-5 (China, France, Russia, the United Kingdom, and the United States) and other like-minded states to propose a new test ban treaty that doesn’t have such
rigid requirements.

Third, the United States should lead a major push for negotiation of a fissile material cutoff treaty (FMCT). Since the United States, Russia, Britain, and France have stopped production of fissile materials for weapons purposes as a matter of policy, and China’s also believed to have ceased production, this one should be a no-brainer. As you know, the Bush administration has tabled a draft at the Conference on Disarmament (CD) last May. That draft was criticized by many for not including any verification mechanism, but on balance I think it’s a step in the right direction.

I was interested to read Steve Rademaker’s piece in the December edition of Arms Control Today. Citing the conclusions of the congressionally mandated Gingrich-Mitchell Task Force on the United Nations, he makes a pretty persuasive case that the CD has become largely dysfunctional.

The fissile material cutoff treaty has been held up almost a decade by certain members of that Geneva-based body that seek to force negotiations on other proposals, like the Prevention of an Arms Race in Outer Space, which has been opposed by successive American administrations. Rademaker argues that the real motivation underlying these efforts to block an FMCT is not a sincere desire to achieve a so-called balanced program of work, but a desire to essentially kill the FMCT. Whether or not you think an outer space treaty is a good idea, one has to agree that it takes some nerve on the part of certain countries to criticize the United States for not working to eliminate nuclear weapons and at the same time preventing consideration of the treaty that would end the production of fissile material for weapons.

To get around this stalemate in the CD, it might make sense to take the same approach as one might for an alternative to the Comprehensive Test Ban Treaty: assemble a coalition willing outside the confines of the CD to negotiate an FMCT and then open it up for the world to sign. If all the members of the P-5 were involved in such an effort, then you could gain some sort of endorsement from the Security Council, giving it added international legitimacy. Would this approach work? I don’t know, but we ought to consider trying it.

Fourth, we should abandon once and for all the Bush administration’s efforts to design new nuclear weapons, including the so-called Robust Nuclear Earth Penetrator, the bunker buster. At a time when we’re trying to convince other nations to abandon their bomb-making activities, these efforts to make nuclear weapons more usable strike many as the height of hypocrisy. We should be doing exactly the opposite: trying to devalue the currency of nuclear weapons and making the argument that their use, under any circumstances, has become unthinkable.

Fifth, the United States should be more aggressive in pushing for the creation of an international fuel bank. There are a variety of proposals on the table for the creation of such a bank, all of which would provide a guaranteed source of civilian nuclear fuel for countries willing to forgo the acquisition of enrichment and reprocessing technology.

This concept has been criticized by some as yet another effort to create nuclear haves and have-nots, but I think it could quickly win broad acceptance if it were implemented in a neutral fashion, understanding that the United States is taking a new approach to the ultimate goal of obligations under the NPT. Perhaps it could be done under the auspices of the IAEA. This should be a very good way for the United States to demonstrate that we are not seeking to limit the ability of countries, even Iran, from enjoying the benefits of a peaceful nuclear technology.

A few months ago, I would have mentioned the additional protocol as a sixth area for the United States to demonstrate leadership, but thanks to the efforts of Senator Lugar, the implementing legislation was passed as part of the India nuclear cooperation bill, albeit in an imperfect form. That process is moving forward.

Finally, in the context of these major nonproliferation initiatives, I’d like to commend Daryl and others at the association for their work on H. Con. Res. 133, the Nonproliferation Treaty Enhancement Act of 2005, introduced by one of the really smart and sensible people in our body, John Spratt. This resolution, which I co-sponsored along with 41 of my colleagues, reaffirmed the critical importance of NPT as the cornerstone of the global nonproliferation regime and urged
support for both of the Comprehensive Test Ban Treaty and the fissile material cutoff treaty. I look forward to working with you on an updated version of this legislation in the new Congress.

Let me turn to some rather specific programs and then sort of bring this to a halt. Then I’d love to hear your comments because I am a little embarrassed talking about these issues to a group of people, some of whom I’ve known a long time, who know so much more and spend so much time focusing on these kinds of issues. But the House did pass, as part of our “six for ’06,” first 100 hours, however you count them, program, having met in January for the first time in 12 years. I mean, there are bad sides to winning as well as good sides. (Laughter.)

We passed legislation to implement recommendations of the 9/11 Commission. That bill, which passed the House, includes a number of meaningful nonproliferation provisions, one of which is intended to strengthen the Proliferation Security Initiative (PSI). As you know, the PSI is the Bush administration’s signature effort to combat proliferation through the interdiction of weapons of mass destruction. The PSI is a useful innovation. But with no underlying treaties, secretariat, or formal obligations for participating governments, it’s now running up against the limits of its effectiveness. So in HR1 we urge the president to establish a defined annual budget for the PSI, clarify the roles and responsibilities of the Departments of State and Defense, and increase PSI cooperation with non-NATO countries. We also recommended that he seek a Security Council resolution to authorize the PSI under international law. We now have a majority who believe there is international law. (Laughter.) And we authorized expanding and formalizing PSI into a multilateral regime to increase coordination, cooperation, and compliance among its participating states in interdiction activities.

HR1 also creates a U.S. coordinator for the prevention of WMD and terrorism in the Executive Office of the President. It’s a great idea; it’s been kicking around for far too long. We’re not that happy with some of the provisions because it doesn’t give the coordinator any budget or personnel authority like that provided to the director of national intelligence. Hopefully, we can beef up this language in conference with the Senate.

Another provision of that 9/11 bill that passed last week removes some of the legal restrictions placed on the Nunn-Lugar Cooperative Threat Reduction (CTR) program. If enacted, the president will no longer have to make a series of certifications before those funds are spent. Of course, we want Russia to comply with all the relevant arms control agreements, make a substantial investment of its own growing, considerable resources to dismantle weapons, and observe internationally recognized human rights. But our highest priority must be to keep nuclear materials and other WMD out of the hands of terrorists. The CTR program is critical to those efforts.

According to the Nuclear Threat Initiative’s latest issue of Securing the Bomb, 2005 was a relatively productive year in terms of securing nuclear materials in the former Soviet Union. But 15 years after the inception of CTR, much more remains to be done. Only 54 percent of former Soviet buildings with nuclear materials and 40 percent of sites containing Russian nuclear warheads have received security upgrades, only 40 percent of key border posts in the post Soviet space are equipped to detect nuclear smuggling, and only 35 percent of former Soviet weapon scientists or workers have sustainable civilian employment. Hopefully, the CTR provision in HR1 will play some role in accelerating this vital work.

I won’t take the time out to get into details of another provision of that bill, the Nuclear Black Market Elimination Act, that seeks to deal with underground nuclear networks like the one created by A. Q. Khan.

It’s easy to get caught up in the minutia of many nonproliferation challenges we face today but as Nunn, Kissinger, Perry, and Shultz argue so persuasively, we’ve got to focus on changing our fundamental assumptions. None of the major proliferation initiatives that I suggested we pursue are in lieu of diligently working to stop the Iranian and North Korean nuclear programs or preventing terrorists from acquiring nuclear weapons. On the contrary, they just might make those efforts more effective. Even if they don’t, what do we lose by trying?

Tony Billings would probably remember and probably some of you were part of it, in the 1980s we tended to spend some time focusing sort of on these broader questions of arms control and
proliferation. Really since the end of the Cold War, since the Republican takeover of the House—at least this member; I have a sense it’s a generally felt thing—believes we get very absorbed in very specific issues; we spend incredible amounts of time. I’m a member of the Iran working group and this caucus and all, and I have a lot of meetings and discussions about specific issues. But there is very little institutional framework for talking about the larger questions that are raised by that article and I think they are very important.

We used to have a breakfast that had outside groups and members who were interested coming together and talking about some strategies, but in a larger context. We don’t do that now. I’m wondering if in the wake of this article, which I think is very important because it has a crossover appeal, of finding a way to get some people to spend more time trying to get those of us who are in Congress, in the House and the Senate, thinking more about these issues. I have no doubt that there are people like Senator Lugar and others who do think a lot about it, but I think the larger issue has gotten lost for the very understandable obsession with trying to deal with these specific issues on a sort of case-by-case basis. With that I’ll stop. Thank you again for inviting me and I’d be interested in your comments about what we might be doing or any questions. (Applause.)

Let me do one thing, though, and that is introduce somebody who’s been a very valuable staff member for me. Many of you have interacted with him and that’s Doug Campbell, who works with me on these issues. (Applause.) He’s my legislative director.

KIMBALL: Comments or questions from the floor?

QUESTION: Congressman, my name is Norman Wulf. You have mentioned just at the end of your comments a lack of institutional structures in the Congress. I’m going to be so brave as to suggest there’s probably a lack of institutional structures in the executive branch as well.

When I first got into this business there was a vast network solely on nonproliferation. There was an assistant director of the Arms Control and Disarmament Agency that worked solely on arms nonproliferation. In the first of this administration’s terms, there was an assistant secretary whose sole responsibility was nonproliferation. Now the most senior person in the State Department whose sole responsibility is nonproliferation is a deputy assistant secretary. I’m wondering is there anything that Congress can do to help the executive branch have its rhetorical priorities also reflected in the administrative structures. Thank you.

BERMAN: Well, Congress helped to create the situation you are now bemoaning. (Laughter.)

QUESTION: I wasn’t going to say that. (Laughter.)

BERMAN: For very different reasons, those who were in control in Congress and the Clinton administration, and my friend Madeleine Albright, wanted to bring things more under the State Department. I think the Republican majority didn’t like the idea of an agency called Arms Control and Disarmament, and we eliminated that. I always thought, apart from any other reasons, just the notion of somebody who doesn’t have to go through somebody else to get something to the White House on charge with these issues had a beneficial effect. I was against that merger but it occurred. We’re not going to undo that now.

I noticed in the context of the India negotiations, those people who were most responsible and interested in nonproliferation issues, it seemed to me, by the end were totally frozen out of the final negotiations. There are different reasons to be for the agreement and then some strong nonproliferation reasons not to be, but you didn’t get that mix into the final negotiations. It was as if people with nonproliferation interests enters, they would just be impediments to reaching the deal we have got to reach in the time we have got to reach it. I guess I want to think more about how to recreate—we mentioned a couple of things in the 9/11 bill—that institutional framework because I think you’re right. Yes?

QUESTION: My name’s Jim Lenard. There was a fair amount of discussion this morning downstairs on the danger of an American military attack against Iranian nuclear facilities. I think a pretty general agreement was that the consequences would be very far-reaching and utterly disastrous. I
wonder if there’s anything the Congress could do to deter that possibility in the remaining two years of this administration?

BERMAN: We were talking about this at lunch just a few minutes ago. I told this story, which I guess I can tell again, about Brzezinski writing an op-ed piece maybe six months ago. Yes, it was in July in the L.A. Times. I’m sorry. My friend from The Daily News in Los Angeles is here. (Laughter.) That rapidly shrinking paper, the L.A. Times, that essentially said, this looks like Iraq—talking about Iran—it looks like Iraq, smells like Iraq, it feels like Iraq all over again. They’re going to do it, and here’s what happens if they do it, and then he lists a series of somewhat frightening and very negative consequences that would happen.

I happened to be going to the White House on one of those rare occasions where I get invited to go to the White House the next morning and I took a copy of that article with me. At the meeting, Steve Hadley was there. I mentioned earlier this Iran Working Group that I go to the meetings of and Hadley was going to come over that afternoon and talk to them. I said, read this piece if you would between now and this afternoon when you come over to the Hill to talk to the Iran Working Group. I would be interested in your reaction. He came that afternoon and he basically said, well, other than the snide comments about the administration in the piece, he said, I have to tell you, I think Brzezinski underestimates the negative consequences of that kind of an attack. From that I took a sense that, notwithstanding some of the alarms, this administration really had no short-term intention of doing anything like that.

But then, as we were having lunch now, I’m thinking, but wait a second, in November a memo leaked that Steve Hadley wrote talking about why Maliki wouldn’t be somebody you’d want to trust with any particularly important mission, whether it was a matter of will or a matter of ability. This very lengthy memo was leaked into the press. Two months later, we are going to be the spine behind Maliki’s effort to put down all the Shiite militias. I guess things can change. But is there anything Congress can do? No, if they’re intent on doing it.

My guess is if it’s kind of a specific, targeted attack as opposed to an invasion, which I just don’t see that in the cards as realistic and possible, they won’t even think of it as something for which they have to come to Congress for an authorization for the use of force resolution. Look, right off the bat, I can’t see what we could do realistically to stop that from happening if that were going to happen. I’m not so sure it’s going to happen.

QUESTION: Jan Lodal. Congressman, given the president’s veto power, the Democratic majority in the Senate, and the next two years and so forth, and the president’s general authority over foreign policy and defense matters, could you sort of sketch a roadmap for how you see getting part at least of this wonderful agenda that you’ve set forth implemented in the next couple of years? How are you and your colleagues thinking about it in terms of what is both important and doable in the next couple of years?

BERMAN: Well, it assumes that me and my colleagues sit around and think. (Laughter.) But it’s things like that article that gets you thinking. I didn’t read it when it came out. I keep forgetting to read the editorial page of The Wall Street Journal (laughter). I’m just throwing out the idea that is there something about people like George Shultz and Henry Kissinger coming out for this that constitutes something? If it’s built on and Congress can bring people in for hearings and circulate it and distribute it and organize and channel it somewhat, can we get people to think about it or at least lay the foundation for reassessing what we’re doing in this area? I don’t want to give you a better answer off the top of my head. I’m still getting over the shock of reading the article.

I’ve talked about some things. It’s certainly something to say as we push some of these initiatives. It’s really something to talk about it. But part of the point of the article is the initiatives we want to push are more likely to be effective if we have gone back to fundamental assumptions and reassess those. It seems to me that was the key part of this. I’m supportive of many things the administration is trying to do. We want to push them harder, we want them not to get caught up in it, but they do seem to be changing. North Korea; that article yesterday was interesting. I want them to be successful in this. I’m just wondering to what extent this article raises the possibility that at least over the long term these efforts will be more effective. Yes?
QUESTION: Randy Rydell. Many issues that come to the attention of senators and congressmen have a high technical and scientific component to them; not just in the national security area, but across the board. Congress decided many years ago to abolish the Office of Technology Assessment. Do you expect that there will be an effort to bring it back and are you satisfied with the current level of technical advice that you receive?

BERMAN: I have a hard time understanding the technical advice that I receive. (Laughter.) There’s an internal process here. I had forgotten; your mentioning it just reminds me that they did that, and why aren’t we thinking about doing this? One of my many different hats, if we ever constitute ourselves, will be chairman of the Intellectual Property Subcommittee of the Judiciary Committee. There we’re dealing with this whole issue of what you can patent? Talk about things that get technical. Bluffing is a very good trait.

You just gave me an idea because I know that Speaker Pelosi is very interested and seriously wants to pursue an “innovation agenda.” The Office of Technology Assessment; I don’t know if that reeks for some of an inappropriate government role. I guess it did. That’s why they eliminated it. But we’re not sensitive to that reek so I think this is something I’m going to take from this lunch and bring back.

QUESTION: I want to ask a little bit more on Jan’s roadmap question. You mentioned the 9/11 Commission nonproliferation bill. My name is Paul Walker from Global Green, U.S.A. The 9/11 Commission bill was excellent, particularly Title XII, which dealt with nonproliferation issues that you talked about, congressman. But there doesn’t appear to be any money, as we would say not much horse power, behind the bill. It’s good rhetoric, but we’ve yet to see what’s going to result from this. I wondered if you would tell us what you think the prospects of a large bill like this, 270-odd pages, might be in the Senate, and then actually getting signed or making it’s way through conference and getting signed by the president and putting some money behind some of the measures?

BERMAN: Well, we have been there only two weeks so there is a huge amount of work. You’re absolutely right. My guess is there’s next to zero chance that that bill that we passed will pass the Senate in that form. But there doesn’t appear to be any money, as we would say not much horse power, behind the bill. It’s good rhetoric, but we’ve yet to see what’s going to result from this. I wondered if you would tell us what you think the prospects of a large bill like this, 270-odd pages, might be in the Senate, and then actually getting signed or making it’s way through conference and getting signed by the president and putting some money behind some of the measures?

QUESTION: I want to ask a little bit more on Jan’s roadmap question. You mentioned the 9/11 Commission nonproliferation bill. My name is Paul Walker from Global Green, U.S.A. The 9/11 Commission bill was excellent, particularly Title XII, which dealt with nonproliferation issues that you talked about, congressman. But there doesn’t appear to be any money, as we would say not much horse power, behind the bill. It’s good rhetoric, but we’ve yet to see what’s going to result from this. I wondered if you would tell us what you think the prospects of a large bill like this, 270-odd pages, might be in the Senate, and then actually getting signed or making it’s way through conference and getting signed by the president and putting some money behind some of the measures?

BERMAN: Well, we have been there only two weeks so there is a huge amount of work. You’re absolutely right. My guess is there’s next to zero chance that that bill that we passed will pass the Senate in that form. But there are dozens of ideas just in that title that you mentioned, as well as other things, that are going to become part of an agenda. In part because we were out of power for so long and because we lost, we understand that our majority is no longer an entitlement program. There is a much greater level of contact and communication between House and Senate committees.

I’m starting to see it already in staffers; how they squeeze in and fit in different kinds of things in different ways. The package may not look anything like that in the appropriations process, not for the rest to this fiscal year but for the ’08 fiscal year, in some of the legislation that does pass in homeland security areas. I think there are great opportunities to get different parts of that through, not looking exactly like H.R.1. But I wouldn’t discount or lose hope that we can actually do things. Many of the things we will do, I don’t think necessarily will be the things that get vetoes from the administration.

QUESTION: Matthew Bunn from Harvard University. Thanks for that very interesting talk. Following up on Paul’s thought, I think you shouldn’t write off this year’s appropriations in that there will be a large supplemental request coming up for the president’s budget and I would urge you to look at some supplemental appropriations for certain particular programs. Most of the programs to secure nuclear material and so on aren’t in fact largely money constrained. They’re constrained by limited cooperation with other countries and so on. But there are a few areas where a couple of hundred million more would make a big difference. I’d be happy to talk about that more specifically. You sort of glided over the part in HR1 about black-market networks and I’ll say candidly that I found a little of that provision a little disappointing, because it was essentially –

BERMAN: That’s why I glided over it. (Laughter.)

QUESTION: ...a sanctions-only approach. I think there’s only so much you can do about the black market networks through sanctions. As I was saying this morning, I think we need a much more focused approach to helping countries around the world put in place effective export controls,
effective transshipment controls, more intelligence sharing on what’s going on with individual brokers and technology marketers, and so on. I think there are opportunities for legislation to put those kinds of things in place, especially since we now have UN Security Council Resolution 1540 that legally mandates that every country in the world has to have these effective controls in place. We’ve done essentially zip so far to actually make sure that that actually happens. I think there are a lot of opportunities there to do more to prevent a recurrence of the A. Q. Khan network.

BERMAN: Yes. I agree. I assume a sanction on some shady Malaysian businessman that he’s not going to be able to do business with U.S. companies or get export licenses is going to have a major impact. We’ve talked about how do we create export regimes in individual countries and some multilateral programs to incentivize those kinds of regimes that distinguish the important from the unimportant, facilitate export of the things that aren’t risky, and then really clamp down on the dangerous stuff. We have done nothing on that whole world of export controls for years because it was such a fundamental conflict really between people like Henry Hyde and Duncan Hunter on one hand and the business community on the other hand. No one made an effort to reconcile those different views, both of which had some legitimate basis, and to produce something. This would be something we should look at. We’re getting too much work from this luncheon. (Laughter.)

KIMBALL: That’s the idea.

QUESTION: Thank you, Congressman. I’m Carol Kalinoski, a consultant here in town working on export controls and nonproliferation. With respect to HR1, especially the section B that proposes various sanctions, I would like to propose that the Congress be mindful that success in export controls only occurs if we have multilateral agreement. If we have unilateral sanctions, the way it’s currently drafted, there is a large contingent in the industry exporting community that is concerned that the reach to foreign persons and corporations is an extraterritoriality issue that may call out what we call these blocking statutes amongst our allies. Unless we can get multilateral agreement, hopefully at the UN, so that it strengthens the work of the 1540, it’s going to cause more problems for the United States and its trade position than attack the illicit nuclear trafficking network.

BERMAN: Well, I’m not familiar with this blocking provision you’re talking about. I certainly agree generally. First of all, in sanctions, I think we are as extraterritorial as we can be. We’re up to the limit on sanctions and with marginal effects. There’s probably been some disincentives for some investment in Iran, but some consequences that’s hard to quantify. It sure seems to me that ultimately if export controls are not multilateral, they’re not going to work.

QUESTION: But just a point on the blocking statutes. It arises especially with the application of the U.S.-Cuba embargo. There are states, for example Canada, which have passed legislation making it a crime for Canadian companies to comply with the U.S. statute.

BERMAN: But that’s extraterritorial. How can they do that?

QUESTION: Well, the point is that if you were a U.S. company with a subsidiary in Canada, you have to choose which criminal law you’re going to violate.

BERMAN: Right. Yes. Plus it affects Bacardi rum or something. (Laughter.)

QUESTION: I have one more idea for you. This is actually an old idea. One of the problems we face in the House is the jurisdiction on nonproliferation is split between Armed Services and Foreign Affairs. There’s a lot more creativity by the people in your committee, but at least the last several Congresses you’ve not passed an authorization.

BERMAN: An authorization on?

QUESTION: State Department.

BERMAN: Yes.

QUESTION: The old idea was to have a specific title dealing with nonproliferation issues that came
out of the Foreign Affairs committee and was attached on the floor to the annual defense authorization bill, which is going to get through the two Houses and will be signed by the president. I think there will be some interest on the part of the House Armed Services Committee of also doing that. The problem that we’ve got is the jurisdiction is between the two committees.

BERMAN: Explain to me when you say when—for instance the Export Control Act—we try to change the role of the Defense Department export controls, it gets sequentially referred to Armed Services. It’s basically a Foreign Affairs Committee jurisdiction.

QUESTION: Well, if you talk to them, they think differently. But all I’m suggesting is that a nonproliferation bill that was reported out of your committee that included many of the points that you’re talking about and that was offered on the floor with the support of Mr. Skelton, I think, would have a real opportunity of being adopted.

BERMAN: In the old days, Henry Hyde and Duncan Hunter saw things much the same way so it didn’t matter where the jurisdiction was because they agreed on where they didn’t want to go.

QUESTION: You got a good list of things. The question is how we get this signed into law, and I would be thinking about a specific title for the defense authorization bill that comes out of your committee and is offered on the floor.

BERMAN: A title to be added as an amendment to the defense authorization bill?

QUESTION: Right.

BERMAN: Which is a good bill to add it too because that bill usually gets signed.

QUESTION: That’s right. That’s exactly right. The defense authorization bill is going to get passed and signed by the president and it’s a good vehicle. Thanks.

BERMAN: Yes.

QUESTION: Hi. Bill Courtney. The Reliable Replacement Warhead issue. Proponents say that if the United States were to go to a Reliable Replacement Warhead this would enable significant reductions in the stockpile that the United States would have to retain and could end a need for nuclear testing. Opponents say that plutonium primaries may last longer than previously thought, and so that doesn’t need to be done now. Do you have a view on that?

BERMAN: Yes. I’d go to the Arms Control Association, to the people I respect, and say, “What do you think of these arguments?” (Laughter.) Or to the Office of Technology Assessment. (Laughter.) But this is what the labs are pushing, right? So just one degree of skepticism, but I’ll be open. Yes?

QUESTION: Herbert Levin. Could you recall the extremely high vote in the House for the agreement with India, and give us some understanding of the motivations of the people who voted for that, putting aside administration stalwarts who would go for anything the president asked for?

BERMAN: Yes. Well, I could start with the people who did it for benign reasons. That’s me. (Laughs.) And then the others. No. (Laughter.) Look, we’re extraordinarily unpopular throughout the world right now. The notion of having a positive relationship with an important growing developing country has a certain appeal when you have hardly any other friends. (Laughs.) I’m serious in a way. People think that the U.S.-Indian relationship, and I think, it’s an important one.

There were other arguments made in favor of it involving energy, although I’m somewhat skeptical on just how much nuclear energy benefits India for environmental and energy purposes. But I think more importantly was the political relationship with India. To be honest with you, even people who were very stalwart nonproliferation people said, at this particular point, that that was very important.

There were two aspects for my decision. One was hearing some people I respect in the nonproliferation community saying, at this particular point, the downsides—once they’ve signed this
agreement and pushed it up here—of killing the agreement mean you probably shouldn’t do that. You should try to make it better, you should try to improve it, but at this point, we would be far worse off having agreed to it, proposed it, and killed it than we would if we had never gotten into it in the first place. So that was part of it.

The second part of it just from my own point of view was this is a very different bill—whether it’s ultimately a critical difference, we’ll find out—than it was. It’s very hard to get them to make changes when you say, no matter what you do I’m going to oppose whatever. In other words, in many cases I didn’t get changes and people like me didn’t get changes because we ran over them on amendments. We persuaded them to accept a number of changes. We raised a lot of issues. But the implicit part of that deal, at least because of my role, was in the end that I was going to have to support the final product. Sometimes it’s good to have both. Ed Markey plays a wonderful role, I think, in raising these issues very strongly and passionately. But I also think there’s a role to try and get some substantive improvements in these things that you are pretty sure are going to pass anyway. You’re not going to make a critical difference, but you have to be part of that bargain. I think there’s a role for both and that was the role I decided to play here.

The other part of this is this became a matter of tremendous pride for the Indian-American community in this country. They were activated. They have extensive networks. They worked it very hard and promoted it. I’ve seen it in the context of other issues and there’s nothing wrong with it. It’s politics in America. But it played a huge role for a lot of Democrats who had no interest in the issue, who didn’t know what we were talking about, and who were not on the committees. Oh, so and so wants it or this group of folks came? Sure I’ll vote for it. That also was a big part of this.

At the very end, just on the little provision regarding what happens if the Indian government re-exports? I got very upset because there’s this Iran Nonproliferation Act. We were supposed to get a report on it about proliferation incidents to Iran and the administration wasn’t doing it. We had a hearing. We asked them, and I said, are there Indian proliferation things? I don’t know what’s in it was the reply. The next day after we passed the bill, they certified their report which showed that there were Indian entities that have proliferated. The picture is, oh, India never proliferates. Well, there’s some serious stuff from back in the 1970s, but there also are these ongoing problems. People came to me from the administration and said please, in the conference committee, make your provision sense of the Congress; get rid of this because this will kill the whole deal.

They’re going to get nuclear cooperation. All we’re saying is if they re-export missile or nuclear technology to somebody else [cooperation is terminated.] Are they going to walk away from a agreement which allows them to get nuclear cooperation over that? Oh, that’s what they’re saying, that’s what they’re saying, the administration told us. That was what they were saying, but they didn’t mean it. It was absurd on its face. My problem with our negotiators is that I don’t think we played out this string long enough. When you force yourselves to do something by a certain deadline, the other side hangs tough. They’re going to win. So I refused to change it. They kept it in the bill and the next day the Indians praised the agreement, never mentioned that provision, and they did a 180-degree turnaround. Yes?

**QUESTION:** Ali, Voice of America. Congressman, in your view, just slightly expanding the focus of the discussion, how significant is the threat of nuclear, chemical, or biological terrorism and what is it that the current administration is doing and in your view needs to be done?

**BERMAN:** Look, I’m going to assume the threat is quite serious because it seems to me that’s a better assumption than the opposite assumption. Without being a total expert on all that’s being done, I’m going to say I’m sure we’re not doing enough. I’m not quite familiar with what’s in place and what could be easily in place in terms of protecting reactors and in terms of detection machinery at ports and entry points. I’m not really that competent to speak in great detail on this, but I’ll start out with the assumption that it’s a serious threat and we’re not doing enough and sort of go from there.

**QUESTION:** Is there anything that you think needs to be done?

**BERMAN:** I’m trying to get out of a specific answer. Yes, I want to see more. I can think of all kinds
of things we want to see done. I want to see us deal with the Russians in a different way. I want to see more Nunn-Lugar programs. I want to see greater rigor in our domestic inspection programs and security protection programs. I want national healthcare. (Laughter.) I've got a lot of things I want.

KIMBALL: Thank you very much. (Applause.)

BERMAN: Thank you very much.

KIMBALL: Ladies and gentlemen, please consider yourselves participants in one very large meeting with a member of Congress providing ideas. We'll pursue many of these things with Congressman Berman and I hope our discussions will continue. I ask that all of you who have suggestions about how ACA can advance this big agenda that Congressman Berman talked about talk to our staff and our office, our board members, and I look forward to seeing you in the coming year. I hope you enjoyed your afternoon. Thank you. (Applause.)

Posted: August 5, 2008

Source URL: https://www.armscontrol.org/events/20070119_transcript_Lunch