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P R O C E E D I N G S

MR. COHEN: Good afternoon. I'm Steve Cohen, I'm a Senior Fellow in Foreign Policy Studies at Brookings. I'd like to welcome you to what is probably the 15th or 20th session we've had on the U.S.-India Nuclear Deal. Going back to 1998 when I first came to Brookings, this has been a subject we've followed very closely. I expect we may have 15 or 20 more through the end of this year.

First of all I would like to announce a cell phone competition. Take out your cell phones, hold them up and turn them off. The winner of the competition will get a free week in North Korea next winter. The second prize is two free weeks in North Korea, so make sure you turn them off right now.

Three years ago on July 18, 2005 Prime Minister Manmohan Singh and President George Bush announced the Civilian Nuclear Agreement and this grew out of engagement over a wide range of issues known as the Next Step In Strategic Partnership. On December 18, 2006 President Bush signed the Hyde Act after much Congressional debate and discussion, and on July 20, 2007 both countries released the text of the 1-2-3 Agreement, which implements the Act.

Prime Minister Singh's coalition has just survived a vote of

no confidence on July 22, this year and he's informally known now as King Singh which I never heard before. And the Board of Governors of the International Atomic Agency expects to meet on August 1 and about the end of September 2008, the Nuclear Suppliers Group may provide an exception for India. And shortly afterwards the U.S. Congress may approve the 1-2-3 Agreement.

This is about the 15th or 20th meeting we've had a Brookings on the prospect of U.S.-India nuclear agreement outside of the framework of the Nonproliferation Treaty. We and other research centers here and in India have debated and discussed it since 1998, if not earlier. This is an important process for many reasons. Two I would single out. First, it reveals a great deal about the way in which two major democracies grapple with each other and with a problem of nuclear energy and nuclear weapons. Both sides have learned a great deal about the difficulties of dealing with the other.

As a Pakistani general friend of mine said, you will learn how difficult it is to deal with the Indians and they will learn how hard it is to be your friend.

Second, there's a complex trade-off of bilateral interests which tend to favor the deal versus larger global interests such as nonproliferation, energy access, and global warming. We're going to try

and touch upon all of these issues, but stay tuned because we'll probably have more sessions like this or similar to this in the next few months.

Today we're going to hear first from Ambassador Nicholas Burns, who was until recently Under Secretary of State for Political Affairs who had full-time responsibility for concluding the deal with India. And we'll go in order in which they most recently dealt with the deal. So Nick was the most recent person to deal with it on an official basis.

Second, Strobe Talbott, President of the Brookings Institution, who was Deputy Secretary of State in the second Clinton Administration and led the most important and protracted dialogue with India after the 1998 nuclear tests.

And finally, we'll hear from Bob Einhorn now with the Center for Strategic and International Studies who has dealt with proliferation issues in the U.S. government since 1972 and was with Strobe in talks with India.

My own connection with the U.S.-India nuclear dialogue goes back to 1963, probably before you were born Nick, when I was a graduate student in India studying Indian military and security matters.

We'll begin with Ambassador Burns, who'll speak briefly and then allow as much time as we can for Q and A afterwards. Nick.

AMBASSADOR BURNS: Thank you very much, good

afternoon. It's a pleasure to be here at Brookings and I want to thank my friend Strobe Talbott for the invitation and also just say I think under Strobe's leadership Brookings has become the premier institution of its kind in this city, so it's nice to be back and particularly on this subject where there's so much wealth of information in everyone seated in the audience. And I do want to say my good friend Dominique Struye de Swielande who is Belgium's Ambassador to the United States, my former colleague at NATO is here. And Ambassador Henrik Liljegren, the former Ambassador of Sweden to the United States. We diplomats like to recognize each other and I'm very pleased that both are here.

I'm not going to surprise anybody in what I'm about to say. I spent three years, eight trips to India, and hundreds of hours negotiating with two great Indian diplomats, Shankar Menon and Shyam Saran. This historic U.S.-India Civil Nuclear Agreement, I'm all for it and I hope very much that the I.A.E.A. and the Nuclear Suppliers Group can now operate with great alacrity so that this agreement can come back to the United States Congress in due time for it to be completed by our government and by our Congress in this year, in 2008.

A short disclaimer; I'm the former Under Secretary of State for Political Affairs. I am no longer with the U.S. government and I'm speaking solely on my own behalf today and I say that because I have a

very close friend also named Burns who is the present Under Secretary of State for Political Affairs, Bill Burns. We just try to confuse everyone by this series of appointment, but he is not responsible for anything I'm about to say.

I'm for this agreement because it's good for both countries and what happened last week in India, when the government not only survived a no confidence vote, but triumphed, I think represents several things about the relationship and about the two countries. First and foremost it is a triumph, in my judgment, for Prime Minister Manmohan Singh. It was his persistence and his very strong will, his belief in this agreement and his belief in the U.S.-India partnership that I think was the most important factor as I read the situation in India in bringing this situation to the very happy place where it currently resides. I also think it's a victory for President Bush and Secretary of State Condoleezza Rice.

President Bush followed President Clinton and these are the two presidents who have made a strategic bet on India. President Clinton working of course, very closely with Strobe Talbott, represented the first major American initiative to form a strategic partnership with India. When President Bush came in he doubled that strategic bet and you've seen President Bush in his July 18, 2005 State visit with Prime Minister Singh and his March 2006 meeting. Be very steadfast in thinking that the United

States had to pursue this agreement, complete it; it will be good for both countries. So I think that what happened last week in India is actually quite positive for both of the leaders of these two countries and both of them deserve great credit.

It's also good for the relationship because here in the United States, I think, I know, there's a bipartisan consensus that we need to create a strong partnership with India across the board. We never intended on July 18, 2005 that the Civil Nuclear Agreement would be and become the centerpiece of that relationship. In fact, I think we announced on that day 16 or 17 joint ventures, in essence, between the two governments. But this emerged as the symbolic centerpiece of the relationship and because it did, when it appeared last autumn that the agreement might collapse a lot of people thought that it would then have negative consequences for the entire relationship. And so another great byproduct of last week's Indian Parliamentary decision is that it confirms the strategic direction of the last two American presidents and the last two Indian governments, both of which in both countries have committed themselves to a qualitatively different type of relationship.

I also think as an outsider and now as a private citizen this is a very good deal for both of our countries. For India, it means the deliverance from 35 years of nuclear isolation. And as my friend Tarun

Das said in a recent editorial, I think he was exactly right to say this: "This is not really a U.S.-India agreement. It's an agreement between India and the world", because what it means is especially when the Nuclear Suppliers Group acts by consensus to give India the same exception to the sanctions and isolation of the last 35 years that the United States government will do. It means all of the countries of the world that are suppliers of nuclear fuel and nuclear technology can now begin to work with India on a straightforward and commonsensical basis.

And so I think for Indians I would just suggest that Tarun's analysis, which I think he published a couple of days ago, is really the correct one because it's more than just an agreement between two countries. It's a universal agreement that will change India's strategic position in the world and there are direct tangible benefits from that. It's also a very good deal for our country. As I said I think it's a political reconfirmation of what both President Bush and President Clinton have been trying to do. It's going to transform and help to transform, I hope, but others will be the judge of this, Indian public attitudes towards the United States. And in essence it takes away the elephant in the room.

We've had diplomatic relations with India for 60 years, since Partition. For more than half of that the elephant in the room has been the prospect that India has felt it was not treated equitably by our country and

others. And I think there is very good reason for President Bush to believe the time had come to remove that elephant from the room.

I would say, but I would defer to others here who are more expert on the nonproliferation regime and both Strobe and Bob have a lot of expertise in that, but my conviction has always been, this deal strengthens the international nonproliferation regime because it resolves this fundamental contradiction inherent in the regime. There are countries inside, like Iran, cheating. And countries outside playing by the rules of the club, but not allowed to join the club and India is the foremost example of that. It will make India a stakeholder in the international nonproliferation regime as the soon-to-be largest country in the world.

Furthermore, I think it answers this fundamental practical question that President Bush and Secretary Rice were grappling with at the beginning of their second term in office. Are we better off continuing to implement an ineffective and ultimately self-defeating proliferation regime against India or bringing India in? Perhaps not all the way, but partially so that the majority of its nuclear establishment will be covered by I.A.E.A. safeguards and here's what this agreement, when it's implemented, will mean. It will mean that 14 of India's 22 present civil nuclear reactors will come under full I.A.E.A. safeguards. It means that all future reactors will come under I.A.E.A. safeguards and I think a conservative estimate would

be that, within a generation, 90 percent of India's nuclear establishment will be under I.A.E.A. safeguards.

None of that would have been possible without this fundamental break with conventional wisdom that President Bush put forward three years ago this month. And no less of an authority and protector of the international nonproliferation regime than Mohamed El Baradei has said consistently since July of 2005, this is the right deal for the international community, for the nonproliferation system and for the major countries that safeguard it.

I also think that there are benefits that are very tangible for the United States of America. For our businesses that ought to be, in my humble estimation, at the head of the line when India begins to expand its construction of civil nuclear reactors. It's going to be good for the environment because India and China now, of course, are major burners of coal. That trend will continue in the future unless something is done in both countries. In India, with three percent of its energy base in nuclear power something must be done to expand nuclear power as part of the grid in India and this liberation of India from these international restrictions will do it.

I also think this agreement is an important message to Iran in the following respect. If you play by the rules, if you don't proliferate

your sensitive technologies, if you invest in the international system and commit yourself to transparency, and work out your differences in a peaceful, civil, negotiated way there will be benefits. And if you don't do that, the opposite is true. There will be sanctions and isolation.

I don't mean to equate India with Iran. I wouldn't dream of that as a great friend of India, but I do mean to suggest that what India has just done in opening itself up is an important example to countries that are currently outlaws. That they might see how this Government of India was treated by the rest of the international community and I think that is a very important example.

A final point. I hope all of this can be completed this year. It's not in my hands, it's in the hands of obviously the I.A.E.A. and the Nuclear Suppliers Group and the United States Congress. And I hope there's going to be patience now in India to understand that the United States Congress has already acted in 2006 on a bipartisan basis to vote by overwhelming margins for the Hyde Bill, the Henry Hyde Bill. It's now up to the international community, particularly the Nuclear Suppliers Group. Forty-five countries to act by consensus, quickly, to make the international exception for India so they can come back to the United States Congress, but that's the continuum. And our Congress has the reality of this being an election year, of a very short window of a session, I

would think in the autumn and so I think the ball is in the NSG's court and I hope that that organization can move with great speed to confirm this agreement.

Thank you.

MR. COHEN: Thank you Nick. I appreciate it. Strobe would you like to say a few words, but let me. I don't know if I mentioned this, your book was twice cited in the recent Indian debate in Parliament and for all I know it's on YouTube and we'll try and track that down for you.

MR. TALBOTT: Four times actually.

MR. COHEN: Four times, okay.

MR. TALBOTT: Welcome to all of you and particular welcome to Nick and to Bob. And welcome to a room and an institution where we specialize in debate of a fairly high order of civility and among people who have nothing but goodwill including towards each other and you're going to hear a little of that debate right now.

I'm not all for this deal. And that doesn't mean that I dispute root and branch, what you just heard from Nick. In fact, one way I might summarize my own position is I hope Nick is right as he looks to the future. And he may be, but I think we all should in this conversation, perhaps deal a little bit more with what lies ahead than how we got to where we are. But I want to explain why I am of the following view.

This is emphatically a good deal for India and India is a good and deserving country and needs all the help that it can get from the United States and the world. It is not, however, at least in its essence a good deal for the world and that's for the following reason. This deal creates a unique country-specific exception or exemption from an extraordinarily important piece of international architecture and that in the Nonproliferation Treaty. And by creating that exception or exemption, it also creates a moral hazard and there have already been cases where countries have come to the United States and to others and said, hey wait a minute, we're a good country too. We need an exception. And that issue is going to loom fairly large in the months and years ahead.

And I would argue that there is a contradiction, a tension, an irony, and I hope not worse than an irony where you have a situation where something is good for India and not good for the world because what is good for India ought to be good for the world and what is bad for the world is, at some point, going to come back and bite India in some fashion.

If the Nonproliferation Treaty continues to unravel, and keep in mind, we're talking about a treaty that went into force back in 1970 and grandfathered in five nuclear weapon states. That was supposed to have been all that there would ever be. There are nine nuclear weapon states

today. Israel, which is presumed to be a nuclear weapon state, India, Pakistan, and North Korea which have all tested nuclear weapons. And if the unraveling of the Nonproliferation Treaty continues it may be in some measure because of the India exception to the NPT and that unraveling could continue in a way that could leave us with a world 10, 15 years from now where there are as many 25 nuclear weapon states. Quite a number of which would be in India's neighborhood which as we know is a rather dangerous neighborhood.

Now, let's look forward. When it seemed as it did not very long ago, that the India Civil Nuclear Deal was well and truly dead in Delhi, a couple of things occurred to me as just one interested observer. One is how ironic. Given all that this deal gives to India, not only did the Indian political system seem to look a gift horse in the mouth, it pulled out a pistol and shot the horse right in the head. Well, now the horse seems to be back from the dead.

And there is a part of me that is relieved, because even though I was and remain as doubtful about the merits of this deal as I've tried to articulate here, I was very concerned that if the deal collapsed on the Indian side and particularly if in addition to that brought down the current government in India, the next president, the next administration of the United States would find themselves in an even tougher position.

They would have had to go back to square one at best and maybe even earlier to square one, from where Bob Einhorn and I worked on behalf of President Clinton back in the 1990s. And India would have been in a truly grouchy mood about this whole issue and we might have had an even harder time getting India to where Nick has said we hope we can now get in terms of having India become part of the solution as opposed to part of the problem of breathing new life if not into the NPT as such, then an effective global nonproliferation regime.

So I did not celebrate the apparent collapse of the deal. I did not dance on the grave out of which the deal has emerged like Lazarus, because I could see problems emanating from that. And if Nick is correct and he hopes very much that he is, that the deal will not only be approved here in Washington but will be approved by the I.A.E.A. and by the Nuclear Suppliers Group. Then I hope the mindset in India with regard to the nuclear question will in fact cause the elephant to leave the room and we can go about broadening the relationship and getting serious about things that India can do to indeed make itself part of the solution.

And those would be things of the kind that Bob in particular worked very hard on in the 90s, which is getting India to sign up to a fissile material cutoff treaty, something that the five nuclear weapon states under the NPT have already agreed to. So this is in some ways a better deal for

India than it is for the NPT, for the Nuclear Five. If it could also undertake meaningful strategic restraints and very, very crucially take what is a voluntary open-ended moratorium on testing and turn it into a signature on the Comprehensive Test Ban Treaty and ratification of the Comprehensive Test Ban Treaty. And as I think, I'm looking around this room and I'm seeing a lot of people who are truly experts in this question and you know that one of the many hang ups with the so-called Hyde Act was its implications for whether India still had the sovereign right to resume testing of nuclear weapons.

Now, last point looking ahead to a McCain Administration or an Obama Administration. I think either one of those administrations is very likely in its first term, that is to say in 2009 to go back to the CTBT and undo, remedy, correct one of the stupidest things that United States Senate has ever done, which is to refuse to ratify the Comprehensive Test Ban Treaty. And by the way, next year will be the tenth anniversary of that stupidity.

Senator McCain, would be President McCain, has said in his speech in Denver that he would look again at the question of ratifying the Comprehensive Test Ban Treaty, which was an extraordinary and from my standpoint a very hopeful statement coming from a Senator who had voted against it nine years ago. Senator Obama has made it quite clear

that he would certainly look hard at ratifying the Comprehensive Test Ban Treaty.

So if you have an American administration that is committed to strengthening the treaty-based, rule-based global nonproliferation regime and the Comprehensive Test Ban Treaty, that is going to start that administration off with a nettle to grasp with the Indian government, whether the Civilian Nuclear deal is in place or not. I prepared to accept the proposition that it will be easier for the next administration to open a new chapter, turn a page in the nuclear dimension of the U.S.-Indian relationship which has loomed all too large over the years, if this deal is done.

So that would be from my standpoint making a virtue out of a necessity or a virtue out of a fait accompli, let's see if the fait is accompli in the coming months.

MR. COHEN: Thank you Strobe. Bob.

MR. EINHORN: Steve, thank you. Strobe thank you and Brookings for hosting this event and I would join Nick in saluting Prime Minister Singh for overcoming the longstanding domestic impasse that held this deal up. I'd also join Nick and the others on this podium in supporting the closest, warmest bilateral ties between the U.S. and India. But like Nick I'm not going to surprise anyone with my remarks, especially

about the nonproliferation implications of this deal.

Now the Bush Administration has consistently made the case that this bilateral deal would help bring India into the nonproliferation mainstream. But in the three years since the deal was negotiated, I see little evidence of India's movement toward the nonproliferation mainstream. Instead the Indian government's most strenuous efforts have been devoted to ensuring it could conduct more nuclear tests without having to fear the consequences for its Civil Nuclear Program. It's also been seeking to ensure the ability uranium for its Civil Nuclear Program while at the same time freeing up its indigenous supplies of uranium for it to produce fissile material for its nuclear weapons program. And its been seeking to limit the number of Indian nuclear facilities that would be covered by the I.A.E.A. safeguard system, while at the same time linking its willingness to place those nuclear facilities under safeguards to insurances of uninterrupted fuel supplies.

Since July 2005 a significant number of countries have cited the U.S.-India Nuclear Deal and argued that this precedent should enable them to have nonproliferation rules relaxed also on their behalf. And it's understandable why they would make this case. What they say is we've been parties to the NPT and we've lived by these constraints. India hasn't joined the NPT, has nuclear weapons, and you have provided relief for

them. Why can't we have this relief as well?

Now the Bush Administration has argued that India as a special case, even a unique case, deserves special treatment. There are some strong arguments for that, especially its responsible behavior in terms of exporting nuclear technology. But I simply don't think the world works that way. Others have looked at this agreement and asked for better treatment for themselves as well and it's going to be more difficult after this deal to deny them.

Now and if, when this deal is finally consummated, the U.S., India and other interested countries are going to have to work together, in my view, to try to limit the damage of this deal to the nonproliferation regime. And to turn the deal from a net nonproliferation minus which is where I think it is today to a net nonproliferation plus. But at this point it is still very uncertain whether this deal will be finalized. There are three important hurdles that have to be overcome and I want to discuss each one briefly.

The I.A.E.A. Board of Governors will meet on Friday and they're going to consider an India I.A.E.A. bilateral safeguards agreement. Now this agreement requires safeguards in perpetuity on all nuclear facilities that India has chosen to put under the I.A.E.A safeguard system. But India is asserting the right to take "corrective measures if fuel supplies

to its facilities are cut off as a result of an Indian nuclear test”.

Some members of the I.A.E.A. Board want to know what India has in mind for these corrective measures and whether those corrective measures are consistent with the principle of permanent safeguards, having safeguards in perpetuity. Some members of the I.A.E.A. Board will, may try to invoke a rule of procedure so that the Board can take some additional time to consider what is an unprecedented agreement, but the fix is already in. I understand and if there is such a request it will be overruled and a decision will be taken on Friday. I think a decision will be taken in favor of this safeguards agreement. It may be adopted by consensus but perhaps more likely by voting, which would be unprecedented for any I.A.E.A. safeguards agreement.

The next hurdle is the Nuclear Suppliers Group which must agree by consensus to make a special exception for India. The U.S. is working with the German Chairman of the Nuclear Suppliers Group to accelerate the schedule for these meetings. The U.S. would very much hope that the NSG, the Nuclear Suppliers Group could complete its work in August so that the U.S. Congress could receive the deal when it begins its session September 8th. At this point I don't think we know whether an early plenary meeting has been scheduled. I'm confident that if the Nuclear Suppliers Group took decisions by secret ballot that this proposal

for a special exception would fail by a significant majority.

Now, of course, the NSG does not take decisions by secret ballot. You have to stand up and be counted, the vast majority of NSG members won't want to disappoint India or the United States, but some members of the Nuclear Suppliers Group may wish to place restrictions on the exception for India. Some may want to prohibit the transfer of all especially sensitive technology, enrichment and reprocessing technology, to India, simply to ban any transfers of this technology to India. And some also may want to specify that Nuclear Suppliers Group members should terminate any nuclear cooperation with India if India carries out a nuclear test. It's not clear how the United States government would react to these proposals. After all, the Hyde Act which is the controlling law of the land with respect to these matters prohibits U.S. transfers of enrichment and reprocessing technology to Indian national facilities. Also the Hyde Act calls for a U.S. cutoff of nuclear cooperation with India should India carry out a nuclear test. So if confronted by strong support for these ideas by Nuclear Suppliers Group members, it's not clear what the U.S. would have to do in those circumstances.

The final hurdle is for the U.S. Congress to approve this bilateral U.S.-India Section 123 agreement. Here the main complication is the calendar. Current U.S. law requires this 123 agreement to sit before

the U.S. Congress for 30 legislative days. There simply won't be 30 days of congressional session before September 26 which is when the Congress is scheduled to adjourn and it's very unlikely at this stage that there's going to be a lame duck session of Congress after the U.S. election. What this would force the U.S. administration to do would be essentially to ignore the Hyde Act, to set it aside and to propose an entirely new piece of legislation that would say essentially that notwithstanding any other provision of law including the Hyde Act, we the Congress have decided to approve this 123 agreement. But if a new piece of legislation is proposed, because of various parliamentary rules in our Congress, it would be significantly more vulnerable to amendment and procedural delay. And I believe there are strong majorities at the end of the day in both the House and the Senate to approve the 123 agreement, but some members of Congress have already made clear that they would like to take the time to consider what they believe are weaknesses in the 123 agreement and especially what they believe are inconsistencies between the Hyde Act which authorizes the negotiation of the 123 agreement and the 123 agreement itself as negotiated. Getting any of these obstacles would be difficult. Getting over all three of them I think will be especially difficult. Proponents are going to have to short-circuit some

normal procedures and probably are going to have to ride roughshod over any critics.

The United States-India deal is already complicated and unprecedented. It will have far-reaching consequences as Strobe has pointed out for the nonproliferation regime as well as for U.S.-India relations. And I think it's worth asking whether it's better to rush to judgment on this deal or to allow the next U.S. administration to address it.

MR. COHEN: We would never think of running roughshod over opponents of the deal. We'd find some other strategy. Let me just say one or two words. One of the things we're doing here is a little tiny project in looking at the history of predictions of nuclear weapons and arms control, looking back over the last 50 or 60 years and what people said about where nuclear weapons were going and nuclear technology was going and it turns out, to make a long story short, most people were wrong most of the time. Everybody guessed wrong about the number of nuclear weapon states, the direction and so forth.

Therefore, let me make two predictions about the future I'm confident have at least 50 percent chance of being right. I think that implementation will be difficult for this agreement if it does go through. You're going to see it fought tooth and nail by the bureaucracies on both sides in the sense that it's going to take a while to get going. It may not

produce the kind of strategic benefits that you've talked about, Nick, but it will get rid of that giant shadow over the relationship. And I don't think that India is going to test unless China tests or unless Pakistan tests. I think that the Indians may not sign the CTBT, obviously I think they should and I think we should, but I don't think they're going to test because I don't think they need the kind of complex, sophisticated system that will give them great power status. So those are a couple of my predictions.

I have one question for you. Why wasn't the agreement a criteria-based agreement which could have included the Israelis and the Pakistanis? Why didn't we say these are the six criteria for an agreement, you need all of them, here's your agreement? Because I think that's one of the key concerns about the arrangement with India. An exception was made with India, India is a nice country, India has done a lot of good things, why not have criteria out there so that Pakistan might some day be able to meet that test?

MR. BURNS: Thank you. If I could, Steve, I just wanted to respond by answering your question to two of Bob's points, and Bob and I are very close friends and I have great respect for him, but we disagree on aspects of this. Rush to judgment? Congress held hearings 2-1/2 years ago. Congress voted nearly 2 years ago on this deal by overwhelming margins. We Americans have studied this. We've held it up to the light.

We've turned it every which way. We have briefed every member of Congress and the Congress has spoken and that the Congress at least in 2006 wanted to go forward. So we're not rushing to judgment. And these are real barriers, these three stages, but they are not (inaudible) barriers. And I cannot speak for the administration's legislative strategy, I am no longer with the administration, but I don't think we should give up on the deal. And we're certainly not rushing to judgment. This has been the most briefed agreement analyzed by every think tank in America that I can remember.

Secondly, I don't fear the precedential impact of this in the way that Bob does, and this answers your question, Steve. We had to make this an exceptional agreement for India because we don't believe, and I'm just speaking here as a private citizen, I don't believe that Pakistan is ready for this type of treatment, and Iran is certainly not ready as one of the major cheaters and violators of the international regime. So I don't worry about the precedential nature of this because the NSG is the ultimate barrier. Forty-five nations need to agree by consensus to let one country through. The only country in the world that has even a chance of getting NSG acceptance is India because of India's trust, its credibility, the fact that it has promised to create a state-of-the-art reprocessing facility monitored fully by the IAEA, because it has a new export control regime in

place, because it hasn't proliferated its own nuclear technology. We can't say that about Pakistan and we certainly can't say that about Iran, and I think gets to the root of why we negotiated it the way we did.

MR. COHEN: Strobe?

MR. TALBOTT: The issue of criteria is tricky and I'm not sure there would be a lot of disagreement amongst us, but we'll see on this point. Leaving the countries that you cite aside, and Pakistan is a special case of a different sort, Pakistan ought to be an honorary member of the Nuclear Suppliers Group since it's been such a nuclear supplier around the world and that's been both a private and a public function over the years. But there are a lot of countries in this world that made a conscious and in many cases constitutionally rooted decision to forego nuclear weapons, countries that have been good citizens of the international community and have contributed in many ways to the peaceful development of nuclear energy and to preserving the integrity of the nonproliferation regime. That gets back to the problem of what I call the moral hazard. If it looks as though the whole thing is coming apart, you're going to have countries like, just to take two examples because they happen to be American allies, Japan and Turkey that are going to reexamine their own nuclear options. Again I want to stress that if that happens it can't be blamed on India. In fact, as I have repeatedly said to

my Indian friends with whom I have otherwise some disagreements on this issue, India really can't be criticized for having negotiated the best possible deal they could get, and boy did it get a good deal.

If the nonproliferation regime does come unwound, there will be lots of blame to go around including for the United States of America because remember, the original NPT bargain between those five countries and the world was that the five countries were going to seriously negotiate on significant reductions in their nuclear arsenals including leading eventually to the elimination of all nuclear arsenals, and to put it mildly, that hasn't happened. An interesting part of our own debate in this country with the gang of four, Shultz, Nunn, Perry, and Kissinger, have all come out in favor of abolition which I think by the way will contribute to an atmosphere here in this country in favor of the CTBT which brings us back to some tension that I think will exist with India with or without this deal in place next year.

MR. EINHORN: Steve, may I just comment quickly on that? On the rush to judgment, the rush to judgment is about the current trifecta of IAEA safeguards agreement, NSG exception, 123 agreement. I think there's a rush to judgment on those, compressing that process to less than a month's time. Nick is right, Congress overwhelmingly approved the Hyde Act, but it hasn't even looked at, discussed, held hearings, on the

123 agreement which is a separate matter. In fact, one of the concerns in the Congress is that the 123 agreement is inconsistent with elements of the Hyde Act. Yes, I believe Congress should take the time to look at this 123 agreement. I happen to think that the idea of a criteria-based approach is a reasonable idea. By saying that the U.S. is prepared to make a special exception for India its close friend, the world gets the impression that the American approach to nonproliferation is selective and self-serving rather than consistent and principled and that's unfortunate.

MR. COHEN: We can go to questions. Strobe must leave exactly at 3:00 but the rest of us stay a little bit after that. Let's go to questions. Yes, sir.

SPEAKER: Thank you -- from India -- question that most Indians in India do not know about this deal at all and they've not been educated. And second, if this deal is good for India, why it was blocked by the left in the parliament and now India has a new coalition and you think this new coalition will -- this deal will go through under this new coalition of the government in India?

MR. TALBOTT: Can we throw that one back to you? You're one of many people in the room who would be able to interpret the internal workings of India and Indian democracy better than I. It's my impression that there were basically two sources of opposition to the deal, neither of

which impressed me very much with their logic. One was the communists, a part of the governing coalition who seem to have a kind of atavistic, deep-seeded suspicion of anything that draws India closer to the United States, and the other were parts of what I would call the strategic community there that was concerned about whether signing on to this deal and particularly with the Hyde Act would limit India's sovereignty on the question of being able to test in the future.

SPEAKER: (inaudible) under the new coalition?

MR. BURNS: In India? I think the Indian government has given every indication that it wants to go forward after last week's vote. The question now is can the international community act as quickly as possible so that we can move along this timeline. I don't want to leave two points out there uncontested. Is the 123 agreement which was a subsequent agreement to the Hyde Act negotiated and completed last July 20 consistent with the Hyde Act? It absolutely is consistent with every part of the Hyde Act. Second, will this agreement if it's consummated lead to Japan and Turkey and other allies of the United States seeking a nuclear weapons future? I certainly hope not. I've not seen any indication from either government that it will. Again, I'm going back to a practical question. I take very seriously Strobe and Bob's concerns about the impact this agreement could have on the international

nonproliferation regime, and both of them are guardians of it and experts on it. I'm certainly not an expert, but I'd say this. The system wasn't working and we had the soon to be largest country in the world out there and not able to participate in any aspect of the system but actually following by the rules and Iran inside not observing. That fundamental contradiction had to be dealt with for the system to have any degree of credibility and so President Bush's approach I think in that sense was highly practical, perhaps not theological, but practical, and I think it can work and we can continue to strengthen this international nonproliferation system, and it needs to be strengthened. And if India can move ahead to develop a state-of-the-art reprocessing system, that also will come under a subsequent vote of the U.S. Congress. So the Congress is going to look at the 123 agreement as it should, and they obviously are going to look at it very carefully. The Congress will then some years from now be able to have a chance to vote on the reprocessing consent rights question, and so I think that the congressional prerogatives have been respected here and will be followed.

SPEAKER: This is Antoine van Agtmael I had a question first of all for Nick but also for the others. Is it your sense that Bill Burns is happy with Nick Burns's view on how this deal as he is now negotiating with Iran, on how this has an impact on the talks on Iran? That is to say,

does this treaty help as you have argued these negotiations or is there a problem with the fact that in essence after a while it kind of rewards a fait accompli, the fait accompli of becoming a nuclear power and then the United States can be very tough until that happens, but after it happens it says okay.

MR. BURNS: Again this gives me an opportunity to say that my friend Bill Burns, the Under Secretary of State for Political Affairs, he is and I am not (inaudible), he is not responsible for what I am saying. I'm speaking as a private citizen. I would say this. I think it's very important to recognize that this agreement, no aspect of it, recognizes India as a nuclear weapons state. We decided not to do that and no aspect of it does that. That was an initial criticism of some of the opponents here in our country but I think was not convincing to the Congress that voted overwhelmingly for it.

What it does is recognize India in another way, in a way that's supportive of India and supportive of nonproliferation and I would make that fundamental distinction. I don't agree with some of the fear-mongering, not on this panel but from some of the prior criticism, that somehow this will irretrievably lead to a great expansion in the number of nuclear weapons countries in the world. I think the message to Iran is actually the opposite. Iran does not stand a chance of getting similar

treatment that India is going to receive in the IAEA or the NSG, not a chance, because nobody trusts Iran in the international system, but everyone trusts India. That's the fundamental practical difference.

MR. COHEN: Professor Babu

SPEAKER: The 123 agreement and the Hyde Act, Mr. Burns says substantially there is no contradiction and Mr. Talbott says they are different. In India also there is a lot of discussion but there are discrepancies between the two and one of India's concerns is if the 123 agreement finally is passed by Congress, does it supersede the Hyde Act.

MR. COHEN: Could you repeat the question.

SPEAKER: If the 123 agreement is passed by the current Congress, in my judgment it supersedes the Hyde Act or does it not? The second is the right of return. Also there has been no comment here on the provision of right of return.

MR. BURNS: I think the Congress was very clear, both political parties and the leadership in the Congress, that subsequent to the passage of the Hyde Act they wanted to see the administration come back with a completed negotiated 123 agreement and the Congress wanted to inspect it, think about it, and then vote on it and we agreed to that, and that's the step that now will take place. So it does not supersede the Hyde

Act, it's a complement and necessary part I think of a congressional overview of this very important agreement.

MR. TALBOTT: And Secretary Rice has been quite clear in answer to Congressman Berman, the Chairman of the House International Relations Committee, that in fact there is total consistency there. Right?

MR. BURNS: Right.

MR. EINHORN: May I just say I'm not an international lawyer and I can't comment on what supersedes what, but I'll give you two examples that some members of Congress have raised about inconsistency. The Hyde Act on the basis of an amendment submitted and approved by Senator Obama says that India should not be encouraged to have large reserves of fuel on its territory because that might enable India to believe that it could test a nuclear weapon and not have its supplies of fuel interrupted. The 123 agreement talks specifically about supporting a fuel reserve in India, talks about the U.S. cooperating with other supplier states to ensure that India would not suffer interruption of supplies in the event it carries out a nuclear test. So I don't know legally whether it's a technical inconsistency, but that's at least an issue that members of Congress want to look at.

There is also the question of the Hyde Act and its mother law the Atomic Energy Act requires the U.S. to cut off nuclear cooperation with

any country that conducts a nuclear test like India. The 123 agreement never mentions termination of assistance on the basis of a nuclear test or violation of the Safeguards Agreement. Instead, it provides for a 1-year prenotification period to notify the other side that it's prepared to terminate and during that year there are all kinds of discussions that would take place, were there extenuating circumstances for an Indian test and so forth, but it delays the termination. So that's an issue also that members of Congress want to look at and I think perhaps there's no inconsistency there, I don't know, but the Congress should have a time to examine that question. It's fundamental.

MR. COHEN: Bob, let me say one word about that. I think that we're probably never going to get to that point because I don't think the Indian nuclear program is ever going to be of that scale or they're going to move toward another series of tests unless you see China resuming testing, unless you see Pakistan going to another generation of nuclear weapons, in which case forget about the (inaudible).

MR. TALBOTT: I'm not sure about that, Steve, and I have no inside knowledge, but my recollection both going back to the Pokharan test in May 1998 and the aftermath of that and more recently is that there remains a debate within the strategic community in India over whether that array of tests was, A, fully successful, and, B, fully sufficient for the

scientific and military purposes involved. So I think that is an open question at least in some very smart brains in India so I don't think we can be totally confident on that score.

MR. COHEN: Yes, sir. Could you give your name and affiliation please?

MR. SHAH: My name is -- Shah from -- as we all know, India-U.S. nuclear deal is so important that there are a lot of discussions intellectually, this one also there is a discussion at the National Press Club on the same issue (inaudible) the Indian government has given so much importance to this issue that (inaudible)

MR. COHEN: What is your question?

MR. SHAH: The question is this, that despite all these developments (inaudible) and Indian government (inaudible) there is so much uncertainty on the future of the bill that even the Congress also is not sure whether it could (inaudible)

MR. COHEN: We know that, but what's your question?

MR. SHAH: (inaudible) discussions or you think that what is the future of (inaudible) because various things that are going on before the new administration takes over -- don't think that there can be any deal at all (inaudible)

MR. COHEN: We'll take that as a statement and not a question.

SPEAKER: Thank you, Steve. India is blessed with friendly neighbors and bearing that in mind, how important is consensus in the NSG? If China were to put its foot down would there be no consensus?

MR. EINHORN: Interestingly, China has not at least overtly expressed any opposition to this deal. Chinese-Indian relations are improving. I don't think China wants to hurt its relationship with India. I know from private discussions that the Chinese are not enthusiastic about this deal. I cannot see them standing up and saying we exercise our veto and we're going to block consensus in the NSG. But if there are other countries who step forward and say we have problems, I can imagine the Chinese ambassador smiling inwardly about that.

SPEAKER: (inaudible)

MR. EINHORN: Consensus has never meant strict unanimity. The question is whether there's broad support and I think it would have to take a committed opponent to stand up and say I insist on blocking this consensus. I think it's probably likely that this deal will go through, but India and the U.S. may have to swallow some modifications they would prefer not to swallow.

MR. COHEN: Yes, sir?

MR. HORNER: I'm Dan Horner from --

MR. COHEN: Excuse me?

MR. HORNER: Dan Horner from -- on the point that Bob Einhorn made about the provisions in the safeguard agreement requiring fuel assurances for India to accept safeguards and the corrective measures that they could take apparently allowing them to remove material from facilities with safeguards, that's caused a lot of concern in the U.S. Congress and in IAEA board and NSG, but apparently India feels it needs this provision for domestic support. How do you square that circle? How do you get around what to this point has been an insoluble problem?

MR. BURNS: I think the circle has been effectively squared. The fuel provisions were written out in the March 2006 separation plan agreement between India and the United States which was unveiled in Delhi and pretty much replicated in the 123 agreement and Congress has been fully briefed on them and Congress has the right to look at them again obviously, but I don't see any inconsistency between those documents. There is none, and I think it's my personal view that those fuel provisions are completely consistent with the Hyde Act in the way that they've been framed.

MR. COHEN: We have time for a few more questions.

Ma'am?

MS. O'MALLEY: Kelly O'Malley with the Cohen Group. I was just wondering if one of you could comment on the implications of this deal for domestic politics in India. As you mentioned, the UPA coalition just survived a confidence vote but at the cost of a great realignment in political parties and politics within the government. So I was wondering what that means for the general elections that are upcoming if the UPA coalition didn't win which some are saying that it won't, what does that mean for the U.S. nuclear deal going forward?

MR. COHEN: I'll answer that. I think you can say two things about it. As I said earlier, it's been a great learning experience in each country about themselves as well as about the other country. We know how hard it is to deal with India, they know how hard it is to deal with us. In the case of Indian votes, a lot of those votes are the movement across party lines, and in fact, several people have been expelled from their parties based not at all on the nuclear deal but on caste politics in North India. So the fate of the deal depends on whether you're pro-Brahman or anti-Brahman in some cases, and I would say that in the next election maybe 15 people in India will vote on the basis of the deal. It's not an issue in India. Relations with America are an issue, but again the deal is

not central to Indian political consciousness, nor is it here in fact. It's something that those of us study India talk about, but that doesn't count in the larger scheme of things.

It will be important I think to corporations in both countries. I could see that in the future 5 to 10 years from now, maybe even less, India will become an exporter of nuclear technology, civilian nuclear plans, power plants, and so forth, and that's an important area and India is now getting into the manufacturing sector. So they will buy from us I think initially, but they want to go off on their own and become an exporter of nuclear energy and nuclear power plants.

I would add also that if the deal fails [a](#)long the way in a catastrophic way and Indians feel that they've been left at the post for some reason, they have the option of testing and in a sense that's the card that they do hold, not that it would help their military nuclear program very much and it would put them really on the outside of the international system for a while, but their revenge could be a series of tests which would be a very bad precedent.

MS. SQUASSONI: Sharon Squassoni from the Carnegie Endowment. It's my understanding that by corrective means, India means that if a fuel supply were cut off it would take its indigenous reactors out of safeguards so that they could be fueled with their own domestic fuel.

Nick, what is your understanding of corrective measures? Have the Indians ever defined that? It's my understanding that they have refused to define that either publicly or privately with U.S. negotiators. And whatever your interpretation is, what are you basing it on? Thanks.

MR. BURNS: Thank you. I think I'll decline the opportunity to speak for another government. I can't do that. It's up to them to decide to declare what they mean by one aspect of the agreement. But I know that when this agreement was negotiated it was fully, including the 123 agreement, consistent with all the provisions of the Hyde Act and the United States would retain of course as we must under our law the right to implement every aspect of the Atomic Energy Act of 1954 in every case. There have been a number of questions that were raised in 2006 and I know even here today about what rights the United States would have if hypothetically India did X, Y, or Z, and all those rights are in place. So I think you raise a good question and it's been a concern that other people have raised, but I think we have the right of termination if we want to if it should come to that, but I believe it probably will not. I think that it's likely that if this whole process can unfold and be approved in a way that we've talked about today, both governments are going to have an interest in actually implement the agreement. But I think you're right to ask the

question and it's a pertinent issue and I don't worry about the United States having the right measures in place to protect our interests.

MR. COHEN: We hope to have another meeting or two here, certainly many more than one, where we bring in Indian counterparts and individuals from other countries who are affected by the deal. So stay tuned. We'll do more about this in the future. Let's have one more question. This gentleman standing way in the back.

MR. KHALID: Good afternoon. This is Akbar Khalid from the U.S.-India Business Council. It's more of a theoretical question really and anyone can feel free to answer. Assuming for a second that the deal is a net negative for nonproliferation, shouldn't the goal of U.S. policy always be the security and safety of the United States overall and shouldn't nonproliferation just be one tool in our statecraft rather than in an end in and of itself which seems to be what a lot of your criticism, Mr. Einhorn, is coming from, that nonproliferation should be an end in and of itself and not looking at the broader strategic interests of the deal?

MR. EINHORN: I don't know what others believe, but I've always believed that nonproliferation is in the national security interests of the United States. That's why it's so important. That's why the two presidential candidates now put it at the top of their agenda items and say

it's so crucial. I wouldn't distinguish nonproliferation on the one side and U.S. national security interests on the other. They're one and the same.

MR. COHEN: Thank you very much, Bob. Thank you, Nick. Thank you very much for your questions. Many of them come in the form of CBMs, conference-building measures, so we will hold more of these in the future. Thank you.

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