

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question:**

When will the Administration present this Committee with legislation regarding nuclear energy cooperation with India?

**Answer:**

We do not intend to ask Congress to take legislative action to facilitate this agreement until the Indian government takes certain important steps. We have made it clear to the Indians that they need to begin to follow through on their commitments, including to present – and begin to implement - a credible and transparent plan for separation of their civilian and military nuclear facilities that is defensible from a nonproliferation standpoint before we would further seek to adjust our legal frameworks.

We have agreed to work closely with the Indians over the next several weeks to months on this plan and on other Indian steps which will allow us to seek changes to our laws. We hope to be in a position to seek formal legislative relief in the first quarter of 2006.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question (2):**

When do you anticipate that India will have completed all of the steps it has committed to undertaking in the July 18, 2005 Joint Statement?

**Answer:**

Some of the actions to which India has committed are ongoing, such as its pledge to continue its moratorium on nuclear testing and its commitment to refrain from the transfer of enrichment and reprocessing technologies to states that do not already have them. Others can be completed with additional effort, such as India's adherence to the Nuclear Suppliers Group and the Missile Technology Control Regime. Some of the actions that India must take are complex, and will take time to complete. There is not yet an established timetable for the separation of India's civil and military nuclear infrastructure, for instance. Implementation of the plan will, as the Joint Statement suggests, take place in a phased manner. We intend to move expeditiously and will assess progress on all aspects of the

Joint Statement prior to President Bush's expected trip to India in early 2006. We hope that India will have developed and begun to implement a plan for civil-military separation and also be engaged in substantive discussions with the IAEA by that time.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question:**

In your view, when should Congress act to change U.S. law? Before or after completion by India of all its undertakings in the July 18 Joint Statement or after the completion of certain parts of the Joint Statement?

**Answer:**

Because the Joint Statement will take considerable time to implement fully, we do not intend to wait until all Indian commitments are fully realized to submit proposed legislation to the Congress. Rather, once India develops a transparent and credible civil-military separation plan for its nuclear facilities and programs and begins to implement it, we will then seek appropriate legislative solutions. Ideally, U.S. law would be properly adjusted before the Nuclear Supplies Group Guidelines are adjusted.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#4)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question:**

What are the interim forms of legislation being considered by the Department in this area? Will there be a new nuclear cooperative agreement with India, one for which statutory amendments would be required, or does the Administration prefer to create a broad, new authority outside of the current Atomic Energy Act of 1954 (42 USC 2011, et seq.) for India?

**Answer:**

In consultation with Congress, our objective is to conclude a new agreement for peaceful nuclear cooperation with India that satisfies all requirements of section 123(a) of the Atomic Energy Act, except for the requirement that full-scope IAEA safeguards be applied in India. India has agreed to separate its military and civilian nuclear facilities and programs, and to place its civilian components under IAEA safeguards. The result will not be "full-scope" IAEA safeguards, so the agreement for peaceful nuclear cooperation will not provide for that; but the agreement will allow for appropriate controls to help ensure that material or goods provided for civilian purposes remain within the civilian sector. The Administration

prefers stand-alone, India-specific legislation, but could envision alternatives as well. We look forward to continuing consultations with both the Senate and the House in the coming weeks.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#5)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question:**

Could you please provide me with your understanding of current U.S. law, i.e., which U.S. laws or regulations prohibit exports to India of nuclear and dual-use nuclear items and which U.S. laws or regulations provide a presumption (of approval or denial) of such exports to India, and which such laws and regulations would need to be modified to implement the Joint Statement?

**Answer:**

Under Section 123 of the Atomic Energy Act (AEA) of 1954, as amended, an agreement for cooperation between the United States and India will be required in order for the United States to engage in major nuclear cooperation (e.g. nuclear material, nuclear facilities, and major nuclear components) with India as contemplated by the Joint Statement. One of the requirements is that an agreement for cooperation (outside of the NPT-recognized five nuclear weapon states) must include full-scope safeguards unless exempted by the President as provided in section 123. An agreement that has been exempted by the President from one or more requirements in section 123(a) cannot become effective until Congress adopts, and there is

enacted, a joint resolution stating that Congress favors the agreement. We believe stand-alone legislation offers a preferable long-term solution.

Section 128 of the AEA requires, as one of the export license criteria for significant nuclear exports, that a recipient non-nuclear weapon state have full-scope safeguards. The AEA's full-scope safeguards requirement is incorporated in the regulations of the Nuclear Regulatory Commission at 10 C.F.R. § 110.42(a)(6), as one of the export licensing criteria for exports of nuclear facilities and material. Section 129 of the AEA prohibits significant nuclear cooperation with a non-nuclear weapon state that is found by the President to have undertaken certain activities, including detonating a nuclear explosive device, or to have engaged "in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities." The Nuclear Regulatory Commission's regulations at 10 C.F.R. § 110.46 incorporate Section 129 of the AEA. Both Section 128 and Section 129 provide Presidential waiver authority.

With respect to dual use nuclear items under the Export Administration Regulations (EAR), there would be no need to make a regulatory change. Dual-use items are reviewed on a case-by-case basis. As a matter of policy, Commerce does not approve exports to unsafeguarded



facilities. Moreover, the United States remains committed to not “in any way” assist weapons programs in non-nuclear weapon states as defined by the NPT.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#6)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question:**

The Joint Statement commits the United States to “full civil nuclear energy cooperation with India.” As the United States has different forms of nuclear energy cooperation with many nations, differing even among NPT Parties, what is the meaning of this phrase in relation to U.S. law and regulation regarding nuclear commerce with India?

**Answer:**

For the United States, “full civil nuclear cooperation” with India means trade in most civil nuclear technologies, including fuel and reactors. But we do not intend to provide enrichment or reprocessing technology to India. As the President said in February 2004, “enrichment and reprocessing are not necessary for nations seeking to harness nuclear energy for peaceful purposes.” We do not currently provide enrichment or reprocessing equipment to any country.

We will also need to ensure that any cooperation is fully consistent with U.S. obligations under the NPT not to “in any way” assist India’s nuclear weapons program, and with provisions of U.S. law.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#7)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question:**

What regulatory changes (beyond those already made under the Next Steps in Strategic Partnership or NSSP) would need to be made to implement full civil nuclear energy cooperation with India?

**Answer:**

Many of the specifics of required regulatory changes to implement full civil nuclear energy cooperation with India have yet to be determined by the Administration. U.S. regulations that incorporate or reflect statutory language will need to be modified or waived in order to permit civil nuclear cooperation consistent with the Joint Statement, and will need to be addressed along with modification or waiver of the related statute. No Department of Commerce regulatory changes will be required in order to implement full civil nuclear cooperation, except as facilities are put under IAEA safeguards, they could in principle be removed from the Entity List.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#8)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretaries Burns and Joseph:

**Question (8):**

Presuming Congressional approval of statutory amendments and Nuclear Suppliers Group approval of an exception to its Guidelines for India, when would the United States Government begin to approve the export of nuclear items or technical data to India, and what are those items or technical data likely to be?

**Answer:**

Should the NSG and the Congress approve, in principle, supply would be feasible when the United States and other potential suppliers assess they can confidently supply to Indian facilities and remain in compliance with our obligations under the NPT and NSG. This will occur once IAEA safeguards are put in place and applied in perpetuity. Further, the separation plan must ensure – and the safeguards must confirm – that cooperation does not “in

any way assist” in the development or production of nuclear weapons. In this context, nuclear materials in the civil sector must remain within the civil sector. A clear and transparent separation between India’s civil and military facilities is essential. We will be unable to supply facilities that are not under appropriate safeguards.

We cannot say precisely which nuclear technologies the U.S. (or other suppliers) would export to India, except that we would exclude reprocessing and enrichment technologies from our list. In our view, once India makes demonstrable progress in implementing key Joint Statement commitments – with the presentation of a credible, transparent, and defensible separation plan foremost on the list – we will be ready to engage with our NSG partners in developing a formal proposal to allow the shipment of Trigger List items and related technology to properly safeguarded facilities in India.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Joseph:

In your statement you note that Congress should not “make the perfect the enemy of the good” and that adding any conditions to the eventual changes to law that Congress might make for India would be a “deal breaker.”

**Question (1):**

Do you mean that the entire set of things contained in the Joint Statement, beyond civil nuclear cooperation, would also be sacrificed if Congress conditioned nuclear commerce with India on things not detailed in the Joint Statement?

**Answer:**

I testified that, based on our interactions with the Indian government, we believe that additional conditions such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state “would likely be deal-breakers.”

The initiative to reach civil nuclear cooperation with India will remove one of the most divisive issues in our bilateral relationship. If the civil nuclear aspects of the Joint Statement are not realized, we believe that our diplomatic relationship and our strategic, commercial and scientific ties

will remain constrained; many of the bilateral activities delineated in the Statement will be adversely affected.

The critical point is that we must resist the temptation to pile-on conditions that will prejudice our ability to realize the important and long-standing nonproliferation objectives embodied in the Joint Statement. We assess that additional conditions such as those specified above remain deal breakers for India. We are better off with India undertaking the nonproliferation commitments to which it has now agreed than in allowing status quo stalemates to prevail.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Joseph:

In your statement you note that Congress should not “make the perfect the enemy of the good” and that adding any conditions to the eventual changes to law that Congress might make for India would be a “deal breaker.”

**Question (2):**

Does the Administration oppose any additional nonproliferation measures for India beyond those stipulated in the Joint Statement?

**Answer:**

I testified that, based on our interactions with the Indian government, we believe that additional conditions such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state “would likely be deal-breakers.”

In our ongoing dialogues, we strongly encourage India to take additional steps to strengthen nonproliferation, such as joining PSI and harmonizing its national control lists with those of the Australia Group and Wassenaar Arrangement. We have indicated that we also plan to continue to discuss such issues as a fissile material cutoff. But we strongly recommend

against adding additional conditions to Joint Statement implementation. The Joint Statement reached by President Bush and Prime Minister Singh is good both for India and for the United States, and when implemented, offers a net gain for global nonproliferation efforts. Rather than add additional conditions or seek to renegotiate the Joint Statement, we believe it would be better to lock-in this deal and then seek to achieve further results as our strategic partnership advances. We believe that this is a sound arrangement that should be supported because the commitments India has made will, when implemented, bring it into closer alignment with international nuclear nonproliferation standards and practices and, as such, strengthen the global nonproliferation regime.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3a)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Joseph:

In your statement you note that Congress should not “make the perfect the enemy of the good” and that adding any conditions to the eventual changes to law that Congress might make for India would be a “deal breaker.”

**Question (3a):**

Could you please provide me with your views with regard to each of the following items, items which have been proposed as those I might consider including in legislation:

(a) A requirement that India stop producing fissile materials for nuclear weapons;

**Answer:**

I testified that, based on our interactions with the Indian government, we believe that additional conditions such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state “would likely be deal-breakers.”

We have sought India's curtailment of fissile material production but have not reached agreement on this issue. In our assessment, insisting on such a cutoff as a precondition for implementing the Joint Statement would likely be a deal-breaker for the Indian government. We believe that we achieved an important objective, however, by obtaining India's commitment to designate, separate, and safeguard its civilian nuclear program. Moreover, the commitment to work toward the completion of a Fissile Material Cutoff Treaty (FMCT) is a significant step.

We continue to encourage India, as well as Pakistan, to move in the direction of a fissile material cap or moratorium as part of our discussions with both governments. We also are willing to explore other intermediate options that might serve such an objective.

The Joint Statement does not alter our policy on FMCT. We continue to support immediate commencement of negotiations in the Conference on Disarmament of a treaty banning production of fissile material for use in nuclear weapons or other nuclear explosive devices. We welcome India's support for the FMCT, which should help to build a consensus to begin those negotiations.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3b)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Joseph:

In your statement you note that Congress should not “make the perfect the enemy of the good” and that adding any conditions to the eventual changes to law that Congress might make for India would be a “deal breaker.”

**Question (3b):**

Could you please provide me with your views with regard to each of the following items, items which have been proposed as those I might consider including in legislation:

(b): A requirement that India declare it will not conduct any more tests of its nuclear weapons;

**Answer:**

I testified that, based on our interactions with the Indian government, we believe that additional conditions such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state “would likely be deal-breakers.”

In principle, making new U.S. law or waivers contingent on India fulfilling its commitments in the Joint Statement is a sound idea. As reflected in its pledge in the Joint Statement, India has already declared that it will maintain its nuclear testing moratorium. Since to date Pakistan has test-exploded nuclear weapons only in response to Indian nuclear tests, this commitment should help diminish the prospects for future nuclear testing in South Asia.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3c)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Joseph:

In your statement you note that Congress should not “make the perfect the enemy of the good” and that adding any conditions to the eventual changes to law that Congress might make for India would be a “deal breaker.”

**Question (3c):**

Could you please provide me with your views with regard to each of the following items, items which have been proposed as those I might consider including in legislation:

(c): A distinction between India and NPT parties that would provide different treatment in terms of the nuclear exports for non-NPT parties, i.e. India would be eligible for most U.S. exports *except* equipment, materials, or technology related to enrichment, reprocessing, and heavy water production;

**Answer:**

I testified that, based on our interactions with the Indian government, we believe that additional conditions such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state “would likely be deal-breakers.”

We do not export enrichment or reprocessing technology to any state. Therefore, “full civil nuclear cooperation” with India will not include

enrichment or reprocessing technology. We have not yet determined whether such a prohibition would extend to heavy water production.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3d)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Joseph:

In your statement you note that Congress should not “make the perfect the enemy of the good” and that adding any conditions to the eventual changes to law that Congress might make for India would be a “deal breaker.”

**Question (3d):**

Could you please provide me with your views with regard to each of the following items, items which have been proposed as those I might consider including in legislation:

(d): Permitting U.S. nuclear exports only to those Indian facilities, sites and locations that are under IAEA safeguards in perpetuity – not to facilities, sites or locations under voluntary safeguards arrangements.

**Answer:**

I testified that, based on our interactions with the Indian government, we believe that additional conditions such as implementing a moratorium on fissile material production, ratifying the Comprehensive Test Ban Treaty, and/or joining the NPT as a non-nuclear weapon state “would likely be deal-breakers.”

To ensure that the United States and other potential suppliers can confidently supply to India and meet our obligations under the NPT, IAEA safeguards on civil facilities must be applied in perpetuity. We, and other potential suppliers, will be unable to supply facilities that are not under permanent safeguards.

**Questions for the Record Submitted to  
Under Secretary Nicholas Burns by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Burns:

**Question:**

During your testimony before the Committee, you seemed to indicate that the Administration would prefer India-specific legislative language rather than country-neutral criteria. What are the strengths, in your view, of an India-specific exception to current U.S. law as opposed to a country-neutral exception?

**Answer:**

An India-specific exception would build on the precedent set by the Brownback II Amendment, which created a South Asia-specific waiver authority for four different statutory sanctions without amending those statutes. An India-specific exception is appropriate to this country-specific initiative and well reflects the need for tailored, actor-specific strategies to combat WMD. It would confirm that the confluence of India's solid nuclear nonproliferation record, enhanced nonproliferation commitments, growing energy needs and strategic position in the world requires a unique approach. Finally, singling out India through legislation would also provide assurances to the Indian government that the U.S. intends to develop key aspects of this partnership for the long-term.



**Questions for the Record Submitted to  
Under Secretary Nicholas Burns by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Burns:

**Question:**

Is it your view that if Congress did not approve provisions for India related to nuclear energy that the U.S.-India relationship would be harmed?

**Answer:**

The initiative to reach civil nuclear cooperation with India recasts one of the most divisive issues in our relationship, and is viewed by many in India as a litmus test for our strategic partnership. If Congress does not approve provisions for India related to nuclear energy, it is likely that the nuclear issue will continue to constrain our diplomatic relationship, as well as our strategic, commercial, defense and scientific ties, thereby having a negative impact on many of the bilateral activities mentioned in the July 18 Joint Statement.

**Questions for the Record Submitted to  
Under Secretary Nicholas Burns by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Burns:

**Question:**

Have Indian officials stated to you that if Congress does not approve a legislative exception for India from current law for nuclear commerce that India would either look differently on its new relationship with the United States or respond negatively to the lack of Congressional action?

**Answer:**

Indian officials have not stated that they will treat the U.S. differently if Congress does not take action. They have, however, expressed concern about achieving extensive advances in the future of U.S.-India relations if either side does not complete its Joint Statement commitments.

**Questions for the Record Submitted to  
Under Secretary Nicholas Burns by  
Chairman Richard G. Lugar (#4)  
Senate Foreign Relations Committee  
November 2, 2005**

The Administration's Legislative Proposal and the July 18 Joint Statement

Secretary Burns:

**Question:**

What does India's current plan for its nuclear power sector call for in terms of the types of reactors (heavy- or light-water reactors) it will seek from foreign providers?

**Answer:**

Because of the current international restrictions on nuclear commerce with India, India's plan for its nuclear power sector seeks to provide for a 20-fold increase in nuclear-generated electricity by 2020 without reactors from foreign suppliers. In support of this objective, India's Department of Atomic Energy (DAE) has committed extensive resources to develop a three-stage nuclear fuel cycle, based on its plentiful domestic thorium reserves, that involves fast-breeder reactors, which could pose proliferation risks. Moreover, some specialists assess that such an approach would not prove cost-effective, and there are clear technical challenges to overcome.

Opening the Indian market to foreign suppliers provides India with a vast array of new civil nuclear energy options. Access to new technologies,

such as pebble bed reactors and low-enriched uranium reactors, and participation in the Generation-IV Forum (GIF) on advanced nuclear energy systems would encourage more viable and proliferation-resistant alternatives.



**Questions for the Record Submitted to  
Under Secretary Nicholas Burns by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

Place in the New Relationship

Secretary Burns:

In testimony before the Committee, several experts suggested that creating an exception from long-standing U.S. law and policy, and asking the Nuclear Suppliers Group (NSG) to do the same with respect to NSG Guidelines, damages U.S. nonproliferation leadership, and that the strategic rationale for the Joint Statement does not provide a basis for such changes.

**Question:**

Why does nuclear energy figure so prominently among the many ways the United States can forge a new, strategic partnership with India?

**Answer:**

The initiative to reach civil nuclear cooperation with India recasts a divisive issue that has for decades constrained our diplomatic relationship, as well as our strategic, commercial, defense and scientific ties. In addition to firmly aligning the U.S. with a country that shares our democratic values and commitment to freedom, it holds substantial, concrete benefits for the U.S., India and the global community.

When implemented, all the steps that India pledged on July 18 will strengthen the international nonproliferation regime, and bolster our efforts to prevent the spread of weapons of mass destruction. Commercially, the

opening of India's lucrative and growing civil nuclear energy market to U.S. firms could provide jobs for thousands of Americans, and provide India with a vast array of clean and viable options to meet its skyrocketing energy needs. India's participation in the International Thermonuclear Experimental Reactor (ITER) program will add significant resources and critical talent to global efforts to develop fusion as a cheap energy source program. If India joins the Generation-IV International Forum (GIF), it could contribute to GIF's mission to make the next generation of reactors safer, more efficient and more proliferation-resistant. Finally, these efforts will also help India pursue its ambitious plans for power development and electrification in a more environmentally friendly manner.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1a)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Violations of U.S. Law

Secretary Joseph:

**Question (1a):**

In testimony before the House on October 26, 2005, Leonard S. Spector, Deputy Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, stated that

*India's misuse of plutonium produced in the Canadian-supplied CIRUS research reactor is not a matter of ancient history; it is an ongoing offense. The original transgression took place in the 1970s, when India misused the reactor, along with U.S.-supplied heavy water that was essential for the reactor's operation, in order to produce the plutonium for India's 1974 nuclear detonation.*

What is the status of India's violation of its peaceful use undertakings in the 1956 U.S. heavy-water contract, are they "ongoing" or are they, as a result of the termination of U.S.-Indian nuclear cooperation, no longer operative?

**Answer:**

India used heavy water that the U.S. provided under a 1956 Nuclear Regulatory Commission (NRC) contract -- along with Indian and third-country heavy water -- as a moderator for the Canadian-provided CIRUS research reactor, the reactor India reportedly used to generate plutonium for its weapons program.

After India detonated a nuclear device in 1974, the U.S. Government examined whether India's actions were inconsistent with a clause under the 1956 contract stating that the heavy water would be used for "research into and the use of atomic energy *for peaceful purposes.*" The outcome was that a conclusive answer was not possible due to both the factual uncertainty as to whether U.S.-supplied heavy water contributed to the production of the plutonium used for the device and the lack of a mutual understanding of scope of the 1956 contract language.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1b)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Violations of U.S. Law

Secretary Joseph:

**Question (1b):**

In testimony before the House on October 26, 2005, Leonard S. Spector, Deputy Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, stated that

*India's misuse of plutonium produced in the Canadian-supplied CIRUS research reactor is not a matter of ancient history; it is an ongoing offense. The original transgression took place in the 1970s, when India misused the reactor, along with U.S.-supplied heavy water that was essential for the reactor's operation, in order to produce the plutonium for India's 1974 nuclear detonation.*

Has any of the plutonium from CIRUS that was produced using U.S.-origin heavy water been incorporated into Indian nuclear explosive devices or used in any Indian tests of nuclear explosive devices?

**Answer:**

As noted above, a conclusive answer has not been possible as to whether U.S.-supplied heavy water contributed to the production of the plutonium used for Indian nuclear explosive devices.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1c)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Violations of U.S. Law

Secretary Joseph:

**Question:**

In testimony before the House on October 26, 2005, Leonard S. Spector, Deputy Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, stated that

*India's misuse of plutonium produced in the Canadian-supplied CIRUS research reactor is not a matter of ancient history; it is an ongoing offense. The original transgression took place in the 1970s, when India misused the reactor, along with U.S.-supplied heavy water that was essential for the reactor's operation, in order to produce the plutonium for India's 1974 nuclear detonation.*

Will the Administration, as a part of the process under the Joint Statement, obtain from India a full, accurate and complete account of the disposition of any U.S.-origin heavy water in India?

**Answer:**

The Administration believes the most productive approach is to focus on India's new commitments under the Joint Statement. These commitments include, among other things, acceptance of IAEA safeguards (including monitoring and inspections of its civil nuclear facilities and programs), and agreement to sign and implement the Additional Protocol, which provides

for broadened access to locations and information regarding nuclear and nuclear-related activities.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1d)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Violations of U.S. Law

Secretary Joseph:

**Question:**

In testimony before the House on October 26, 2005, Leonard S. Spector, Deputy Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, stated that

*India's misuse of plutonium produced in the Canadian-supplied CIRUS research reactor is not a matter of ancient history; it is an ongoing offense. The original transgression took place in the 1970s, when India misused the reactor, along with U.S.-supplied heavy water that was essential for the reactor's operation, in order to produce the plutonium for India's 1974 nuclear detonation.*

Does the Government of India acknowledge that its unauthorized end use of U.S.-origin heavy water supplied for the CIRUS reactor was a violation of U.S. law?

**Answer:**

Following India's 1974 detonation of a nuclear device, the Government of India plainly stated its disagreement with the U.S. over the meaning and scope of the clause in the 1956 contract that stipulated that the heavy water would be used for "research into and the use of atomic energy for peaceful purposes."

At the time, the debate on whether India had violated the contract was inconclusive owing to the uncertainty as to whether U.S.-supplied heavy water contributed to the production of the plutonium used for the 1974 device and the lack of a mutual understanding of scope of the 1956 contract language on “peaceful purposes.”

We have since made it clear that we exclude so-called “peaceful nuclear explosions” – and any nuclear explosive activity – from the scope of peaceful nuclear cooperation.

India has not acknowledged to the U.S. that it considered that its use of U.S.-supplied heavy water was a violation of the 1956 contract.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1e)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Violations of U.S. Law

Secretary Joseph:

**Question:**

In testimony before the House on October 26, 2005, Leonard S. Spector, Deputy Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, stated that

*India's misuse of plutonium produced in the Canadian-supplied CIRUS research reactor is not a matter of ancient history; it is an ongoing offense. The original transgression took place in the 1970s, when India misused the reactor, along with U.S.-supplied heavy water that was essential for the reactor's operation, in order to produce the plutonium for India's 1974 nuclear detonation.*

Does the Government of India acknowledge that its 1974 nuclear-weapon test was not a "peaceful nuclear explosion"?

**Answer:**

It is our understanding that it remains the view of the Indian Government that its test of a nuclear explosive device in 1974 was a "peaceful nuclear explosion."

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1f)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Violations of U.S. Law

Secretary Joseph:

**Question:**

In testimony before the House on October 26, 2005, Leonard S. Spector, Deputy Director of the Center for Nonproliferation Studies at the Monterey Institute of International Studies, stated that

*India's misuse of plutonium produced in the Canadian-supplied CIRUS research reactor is not a matter of ancient history; it is an ongoing offense. The original transgression took place in the 1970s, when India misused the reactor, along with U.S.-supplied heavy water that was essential for the reactor's operation, in order to produce the plutonium for India's 1974 nuclear detonation.*

If India declares that CIRUS is a peaceful reactor, would any plutonium produced there need to be removed from those plutonium stocks that India has set aside for weapons and placed under permanent IAEA safeguards?

**Answer:**

We do not yet have from the Government of India a plan outlining which of its nuclear facilities will be declared civilian; our discussions continue.

The details of the safeguards agreement which India has undertaken to negotiate with the IAEA will presumably follow. However, as most such agreements are not retroactive, we would not expect the agreement to

specify that previously-produced material must be returned to the plant in order to be placed under safeguards. Were the plant to be placed under safeguards, those safeguards would be applicable in perpetuity to any material produced by, used by, or stored in the plant after the effective date of the agreement.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

Nuclear Suppliers Group Issues

Secretary Burns and Secretary Joseph:

**Question:**

What are the positions of each of the 44 members of the Nuclear Suppliers Group on the comments and proposals made by A/S Rocca and A/S Rademaker during their consultations with NSG members in Vienna, Austria last October?

**Answer:**

Not every member of the Nuclear Suppliers Group expressed an opinion on the comments made by A/S Rocca and A/S Rademaker during their consultations with NSG Participants at the Consultative Group meeting in October. The meeting provided many NSG partners the first opportunity to consider our proposed approach to realizing full civil nuclear cooperation without amending the NSG Guidelines, per se.

Of those delegations expressing an opinion, some governments, including the Czech Republic, France, Russia, and the UK, expressed support for the proposal; several governments, including Argentina, China, Greece, Japan, and South Korea, said that their governments would require further information on implementation, including details of India's plans for

the separation of civilian and military nuclear facilities, before they could make a decision on the proposals; and some governments, such as Sweden and Switzerland, expressed initial reservations and indicated a need for further study.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

Nuclear Suppliers Group Issues

Secretary Burns and Secretary Joseph:

**Question:**

Could you please furnish the remarks made by A/S Rocca and A/S Rademaker in Vienna to the NSG members to the Committee?

**Answer:**

Yes. To satisfy standard NSG confidentiality practices, Assistant Secretary Rocca's and Assistant Secretary Rademaker's statements are reproduced below. These are not intended for open publication.



**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

Nuclear Suppliers Group Issues

Secretary Burns and Secretary Joseph:

**Question:**

Did the remarks made by the U.S. delegation present specific proposals regarding changes to specific parts of the NSG Guidelines for Nuclear Exports for India?

**Answer:**

We have not yet tabled any formal proposals. We expressed a preference at the October meeting of the NSG Consultative Group to treat India as an exceptional case in light of its substantial and growing energy needs, its nuclear nonproliferation record, and the enhanced nonproliferation commitments it has now undertaken. We also expressed our firm intention that the NSG maintain its effectiveness, and emphasized that we will not undercut this important nonproliferation policy tool. The U.S. proposal neither seeks to alter the decision-making procedures of the NSG nor amend the current full-scope safeguards requirement in the NSG Guidelines.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#4)  
Senate Foreign Relations Committee  
November 2, 2005**

Nuclear Suppliers Group Issues

Secretary Burns and Secretary Joseph:

**Question:**

Has the United States shown proposed changes to NSG Guidelines to Indian Government officials?

**Answer:**

No. Our discussions with India to date have centered on implementation of Indian and U.S. commitments rather than on what the NSG should do.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#5)  
Senate Foreign Relations Committee  
November 2, 2005**

Nuclear Suppliers Group Issues

Secretary Burns and Secretary Joseph:

**Question:**

Will India join the NSG?

**Answer:**

In the 18 July Joint Statement, PM Singh committed India not to join but to adhere to Nuclear Suppliers Group (NSG) and Missile Technology Control Regime (MTCR) Guidelines. The practice of unilateral adherence to the MTCR or NSG is not unique to India. Unilateral adherents voluntarily abide by the Guidelines of the regime – as do regime members – but are not formal members, per se. We expect to hold unilateral adherents, such as India, to the same standards specified in the Guidelines.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#6)  
Senate Foreign Relations Committee  
November 2, 2005**

Nuclear Suppliers Group Issues

Secretary Burns and Secretary Joseph:

**Question:**

Do you anticipate that the NSG will be able to make a consensus decision on the U.S. proposal(s) regarding India at its next plenary meeting?

**Answer:**

While we will certainly consider advancing a formal proposal for NSG consideration at the next plenary, the pace and scope of India's implementation will help determine the specific timing. Should its actions, and our ongoing consultations with NSG partners support it, we may be in a position to seek agreement on a formal proposal at the 2006 plenary session, expected in the May/June timeframe.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Has the Government of India entered into discussions with International Atomic Energy Agency (IAEA) officials regarding a new declaration of civil nuclear sites, facilities or locations?

**Answer:**

To our knowledge, the Government of India has not yet entered into discussions with the IAEA. Such a step might be viewed as premature, considering that India has not yet developed a separation plan upon which such a declaration would be based. We have indicated that such a plan must be credible, transparent, and defensible from a nonproliferation standpoint.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

When will India submit a new declaration to the IAEA of its civil sites, facilities, or locations that would be subject to safeguards?

**Answer:**

There is no set date. The first step is for India to develop a credible and transparent plan for separating its civil and military facilities and programs. We hope that such a separation plan and subsequent declaration to the IAEA of what is to be civilian – as well as initial implementation toward safeguarding its facilities – can be accomplished by early 2006.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

What kinds of safeguards will be applied to India's declared civil sites, facilities or locations (please specify IAEA Information Circular (INFCIRC) number)?

**Answer:**

Safeguards agreements are modeled after INFCIRC/153 (the NPT safeguards agreement) or INFCIRC/66 (the Agency's safeguards system predating the NPT). India will not likely sign a safeguards agreement based strictly on INFCIRC/153, as this would require safeguards on India's nuclear weapons program. NPT-acknowledged nuclear weapon states have so-called "voluntary" safeguards agreements that draw on INFCIRC/153 language, but do not obligate the IAEA to actually apply safeguards and do allow for the removal of facilities or material from safeguards. We heard from other states at the recent NSG meeting that they would not support a "voluntary offer" arrangement as, in their view, it would be tantamount to granting de facto nuclear weapon state status to India. We have similarly

indicated to India that we would not view such an arrangement as defensible from a nonproliferation standpoint. We therefore believe that the logical approach to formulating a safeguards agreement for India is to use INFCIRC/66, which is currently used at India's four safeguarded reactors. For the most part, INFCIRC/66 and INFCIRC/153 agreements result in very similar technical measures actually applied at nuclear facilities.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#4)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Will India allow the safeguards applied to its declared civil sites, facilities or locations to be permanent, i.e., that no declared site, facility or location may be removed from India's declaration to the IAEA and that the safeguards in place on those declared sites, facilities or locations are to be in place in perpetuity?

**Answer:**

We do not view a safeguards agreement that would allow India to withdraw facilities or material from safeguards as acceptable, and we have informed India of this view. Among other considerations, we must be assured that safeguards will be applied in perpetuity, that "civil" material remains in the civil sector, and that any assistance provided in no way contributes to India's nuclear weapons program. The safeguards must effectively cover India's civil nuclear fuel cycle and provide strong assurances to supplier states and the IAEA that material and technology provided or created through civil cooperation will not be diverted to the military sphere.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#5)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Has the Administration briefed the IAEA on its discussions of a civil-military split in Indian sites, facilities or locations, and if so, when?

**Answer:**

No, we have not briefed the IAEA Secretariat on our discussions of a civil-military split in Indian sites, facilities or locations. The IAEA Secretariat will play an essential role in this process, but that role is still in the future, once India has taken certain key steps and there is a clearer understanding and acceptance of India's separation plan.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#6)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

What are the general “phases” (not dates) that will unfold under the Joint Statement’s terms with respect to India’s separation of its civil and military nuclear facilities, sites or locations?

**Answer:**

The first step in the process will be for India to produce a general plan for the separation of its civil and military facilities and programs. We expect that India will propose a civil-military separation plan that is credible, transparent, and defensible from a nonproliferation standpoint. Such a plan would form the basis for a declaration by India to the IAEA of its civil facilities. It would also form the basis for the negotiation of a safeguards agreement between the IAEA and India. Negotiation of an Additional Protocol would probably proceed in parallel with the negotiation of the basic safeguards agreement, but this remains to be determined. Upon completion and entry into force of the safeguards agreement, the IAEA would begin inspections of Indian nuclear facilities. Based on the language of the Joint

Statement, we expect that it will take some time to complete full implementation of safeguards at India's civil facilities, and thus implementation would occur in a "phased" manner, based on a sequence identified in the separation plan and as agreed to with the IAEA and as specified in the safeguards agreement.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#7a)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

The IAEA, because of budgetary pressures, discontinued inspections in the United States in 1993, largely because the value of such inspections is of limited utility in states with declared and lawful nuclear weapons programs. At the request of the U.S. Government, the IAEA resumed inspections in 1994 by applying safeguards to several tons of weapons-usable nuclear material, which had been declared excess to U.S. national security stockpiles. The IAEA undertook this effort on the condition that the United States reimburse the IAEA.

The Joint Statement notes that India will “assume the same responsibilities and practices and acquire the same benefits and advantages as other leading countries with advanced nuclear technology, such as the United States.”

Will India declare a portion of its weapons-useable materials excess to its defense needs and place them under permanent IAEA safeguards?

**Answer:**

India has not informed us of whether it views any existing weapons-usable material as “excess.”

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#7b)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

The IAEA, because of budgetary pressures, discontinued inspections in the United States in 1993, largely because the value of such inspections is of limited utility in states with declared and lawful nuclear weapons programs. At the request of the U.S. Government, the IAEA resumed inspections in 1994 by applying safeguards to several tons of weapons-usable nuclear material, which had been declared excess to U.S. national security stockpiles. The IAEA undertook this effort on the condition that the United States reimburse the IAEA.

The Joint Statement notes that India will “assume the same responsibilities and practices and acquire the same benefits and advantages as other leading countries with advanced nuclear technology, such as the United States”.

Will India reimburse the IAEA for any inspections conducted in India on safeguarded facilities, sites, locations and materials?

**Answer:**

To our knowledge, the IAEA and India have not yet discussed whether India will reimburse the IAEA for any inspections conducted in India on safeguarded facilities, sites, locations and materials.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#8)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Do you assess that the IAEA currently has the staff, funding and necessary information to support safeguards monitoring for India without taking away from inspection and verification efforts in other countries?

**Answer:**

We recognize that implementing safeguards in India will entail significant costs that are not currently included in the IAEA's budget. We look forward to working with the IAEA and the Government of India to estimate those costs and to identify how best to meet them without undercutting inspections/verification efforts in other countries.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#9)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Would India permit the IAEA, as a confidence-building measure, to conduct inspections of its declared facilities, sites or locations, and if so, how many such inspections and how many facilities, locations or sites would be inspected?

**Answer:**

The safeguards agreement that India negotiates with the IAEA after developing a separation plan will require sustained IAEA inspections on all Indian civil facilities containing nuclear material, with frequency to be determined by the IAEA. The Additional Protocol will allow inspections of additional nuclear-related locations.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#10)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Will the Additional Protocol (AP) that India signs be identical to the Model Additional Protocol (INFCIRC/540)?

**Answer:**

No. The Model Additional Protocol is structured to accompany a country's full-scope safeguards agreement. Because India's safeguards agreement will differ from a full-scope safeguards agreement, India's Additional Protocol will differ from the Model as well.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#11)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

In the Joint Statement the Indian Prime Minister states that India commits to “signing and adhering to an Additional Protocol with respect to civilian nuclear facilities”. Does this mean that India would not ratify and implement its Additional Protocol?

**Answer:**

No. We expect that India will ratify and implement both its safeguards agreement and its Additional Protocol.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#12)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Is it permissible for any Non-Nuclear Weapon State (NNWS) under the NPT to sign and adhere to, but not to ratify and implement, the Additional Protocol?

**Answer:**

While India is not a party to the NPT, non-nuclear weapon states party to the NPT are obliged under the NPT to bring into force a full-scope safeguards agreement, effectively covering all nuclear material in the state. The NPT does not, however, require such a party to either sign or bring into force an Additional Protocol, whose provisions strengthen the safeguards agreement beyond what is required by the NPT. The Additional Protocol's provisions include, for example, requirements to declare information regarding, and to allow access to, locations that do not involve nuclear material. The NPT also does not, unlike the NSG, condition full scope safeguards as a condition of nuclear supply. Rather the NPT requires that

cooperation does not “in any way assist” any weapon program in non-nuclear weapon states.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#13)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Is it permissible for any Nuclear Weapon State (NWS) under the NPT to sign and adhere to, but not to ratify and implement, the Additional Protocol?

**Answer:**

Nuclear-weapon states parties to the NPT are not required by the NPT to sign any type of safeguards or inspection agreement, including an Additional Protocol. All such undertakings by the nuclear weapon states are voluntary.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#14)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

Will the Additional Protocol that India signs permit it to exclude the application of safeguards to any facilities, sites or locations in India?

**Answer:**

India has not yet negotiated an Additional Protocol with the IAEA. The Joint Statement indicates that India's Additional Protocol will apply to Indian civil nuclear facilities, and we expect that there will be some language in the Indian Additional Protocol making its scope consistent with that concept. We believe it is unlikely that India will permit access to its nuclear military facilities under its Additional Protocol.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#15)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question (15):** When will India sign an AP?

**Answer:**

There is not yet an established timetable for this step. The actions India committed to in the Joint Statement involve complex issues, and they will take time to implement fully. We hope to move expeditiously on all aspects of the civil nuclear initiative and will assess progress prior to President Bush's expected trip to India in early 2006.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#16)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

**Question:**

What would be the relationship between India's list of declared civil sites subject to safeguards and its AP? Are the provisions of its AP binding on its declared civil sites?

**Answer:**

Two types of inspections would presumably occur at civil facilities in India: safeguards inspections that would take place at nuclear facilities containing nuclear material of a defined purity, and complementary access inspections that would take place at other facilities, which, with minor exceptions, do not contain such material. The first type of facilities is declared and inspected as specified by the safeguards agreement, and the second type is declared and inspected as described by the Additional Protocol. The two types of facilities are distinct, but we anticipate that both would be part of an Indian declaration. The requirements on the state to provide information and access are equally binding in the two cases.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#17)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

With regard to the plan that GOI will bring here this month, and in connection with the principle of "Transparency":

If we are talking about an INFCIRC/66 Rev.2 [safeguards agreement] (SGA), it would clearly spell out which facilities were covered by the terms of that SGA. But if India does a voluntary safeguards agreement, or has some sites covered under a voluntary SGA, or sites, facilities and locations co-located with sites that are not covered by the terms of an INFCIRC/66 Rev.2 SGA, then some of the list of eligible, declared civilian facilities would be considered "safeguards-confidential" not under an INFCIRC/66 Rev.2 SGA nor made all that transparent. In other words, there would be an INFCIRC agreement, but no one would have access to the actual list of sites, facilities and locations (like our Voluntary Offer SGA).

**Question:**

Are we prepared to accept a mixed situation in India?--Some sites under VOA-type SGAs and some under INFCIRC/66 Rev.2 SGAs? Does the IAEA hold such a situation with any other countries?

**Answer:**

Because the IAEA publishes a list of all facilities to which safeguards are applied, all exporters will be aware of which facilities in India they can export to. So-called "voluntary offer" agreements are used only by the five NPT-recognized nuclear weapon states. In general, voluntary arrangements

allow the covered state to withdraw facilities and material from safeguards at will. In our view, a voluntary offer arrangement for India would be inconsistent with the Joint Statement and would not be defensible from a nonproliferation standpoint.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#18)  
Senate Foreign Relations Committee  
November 2, 2005**

Safeguards Verification and Compliance

Secretary Joseph:

With regard to the plan that GOI will bring here this month, and in connection with the principle of "Transparency":

If we are talking about an INFCIRC/66 Rev.2 [safeguards agreement] (SGA), it would clearly spell out which facilities were covered by the terms of that SGA. But if India does a voluntary safeguards agreement, or has some sites covered under a voluntary SGA, or sites, facilities and locations co-located with sites that are not covered by the terms of an INFCIRC/66 Rev.2 SGA, then some of the list of eligible, declared civilian facilities would be considered "safeguards-confidential" not under an INFCIRC/66 Rev.2 SGA nor made all that transparent. In other words, there would be an INFCIRC agreement, but no one would have access to the actual list of sites, facilities and locations (like our Voluntary Offer SGA).

**Question:**

Is the Administration looking to accept a cooperation agreement that would already be covered by an existing -66 agreements (i.e., Tarapur), and then let India put additional civilian facilities on an eligible list?

**Answer:**

Both an Agreement for Peaceful Nuclear Cooperation between the U.S. and India and a new safeguards agreement between India, the IAEA, and possibly other parties, would have to be negotiated.

There is no “eligible list” associated with current Indian safeguards arrangements, which conform to INFCIRC/66. We expect India “to place all its civil nuclear facilities under full IAEA safeguards and that includes monitoring and inspections,” as Under Secretary Burns said July 20, 2005. Since a voluntary offer arrangement would not require the IAEA to apply safeguards to facilities on a list of those eligible for safeguards, it would not meet that standard. Furthermore, in order to provide reasonable assurances to potential suppliers that they are not assisting the Indian nuclear weapons program, among other things safeguards must be applied in perpetuity and “civil” nuclear material must remain civil.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

INPA Sanctions

Secretaries Burns and Joseph:

On September 23, 2004, the Administration sanctioned two Indian scientists for their activities in Iran under the authority of the Iran Nonproliferation Act of 2000 (P.L. 106-178, or INPA).

**Question:**

Has the Administration considered other sanctions against Indian entities or persons under INPA or any other relevant U.S. law or Executive Order since last September?

**Answer:**

While we believe India has a solid record overall of ensuring that its nuclear-related expertise and technologies do not pose a proliferation risk, we continue to review information and take action to implement U.S. law as appropriate. In an unclassified response, it would not be appropriate to comment on the consideration of any other sanctions cases due to

intelligence sensitivities that would surround any such case. However, if additional details are required, we could provide a classified response separately.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

INPA Sanctions

Secretaries Burns and Joseph:

On September 23, 2004, the Administration sanctioned two Indian scientists for their activities in Iran under the authority of the Iran Nonproliferation Act of 2000 (P.L. 106-178, or “INPA”).

**Question:**

What was the reaction of the Indian Government to the INPA sanctions last year?

**Answer:**

In the context of our ongoing dialogue with India, we informed the Indian Government when sanctions were imposed. At that time, they expressed serious concerns, and we discussed the sanctions cases as part of the dialogue. The Indian Government has made clear to us its commitment to close any loopholes and ensure that its entities are not a proliferation source of sensitive technologies in the future. Among recent steps, India has improved its export control legislation and has harmonized its national control list with the Nuclear Suppliers Group Guidelines.



**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

INPA Sanctions

Secretaries Burns and Joseph:

On September 23, 2004, the Administration sanctioned two Indian scientists for their activities in Iran under the authority of the Iran Nonproliferation Act of 2000 (P.L. 106-178, or "INPA").

**Question:**

What steps has India taken to prevent Indian interactions with Iranian entities or persons closely involved with Iran's atomic energy activities?

**Answer:**

We cannot comment in unclassified channels on specific Indian actions, but would be able to discuss this further in a classified setting.

We believe India has a solid record overall of ensuring that its nuclear-related expertise and technologies do not pose a proliferation risk, and we have an ongoing dialogue with India on proliferation issues. India has clearly demonstrated over the past several years its desire to work with the United States and the international community to fight the spread of sensitive nuclear technologies.

As part of an effort launched with India during the Administration's first term – the Next Steps in Strategic Partnership – India took a number of significant steps to strengthen export controls and to ensure that Indian companies would not be a source of future proliferation. Not only did India pledge to bring its export control laws, regulations, and enforcement practices in line with modern export control standards, but also passed an extensive export control law and issued an upgraded national control list that will help it achieve this goal.

Other measures were also instituted as a part of the NSSP process, which included India permitting U.S. government end-use verifications and agreement to increase bilateral and multilateral cooperation on nonproliferation.

In addition, India has become a party to the Convention on the Physical Protection of Nuclear Material and has taken significant steps toward meeting its obligations under UNSCR 1540.

The additional nonproliferation commitments India made as part of the Joint Statement go even further and, once implemented, will bring it into closer conformity with international nuclear nonproliferation standards and practices.

In our view, it is clear that India agrees that Iran's pursuit of a full nuclear fuel cycle makes no sense from an economic or energy-security standpoint. India has called on Iran to return to negotiations with the EU3 aimed at ending Iran's pursuit of a nuclear weapons capability in exchange for expanded cooperation from Europe and others in the field of peaceful nuclear energy, as well as economic, commercial, political, and security incentives. India has also called on Iran to cooperate fully with the IAEA's ongoing investigations, and to resume a suspension of all enrichment-related and reprocessing activities as a way of building confidence. We welcomed India's decision to join 21 other IAEA Board members in voting to adopt the September 24 resolution that found Iran in noncompliance with its safeguards obligations. That outcome demonstrated to Iran that it is not just the U.S. and other Western countries that have concerns about Iran's nuclear activities, but the entire international community. India has offered full support to the EU3's efforts to seek an end to Iran's nuclear weapons ambitions.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Has the Administration undertaken an expert-level legal analysis of India's export control laws and regulations?

**Answer:**

Department of State and Commerce lawyers and export control experts have reviewed India's Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act, adopted in 2005, consistent with India's NSSP and Joint Statement commitments. We continue to discuss export control-related issues with the Government of India.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

If so, could you please furnish that analysis to this Committee?

**Answer:**

There is today no consolidated analytical document representing an interagency assessment of India's export control law and regulations. As always, we stand ready to brief the committee on the results of our review.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

I understand that the State Department sent a number of questions concerning India's export control law(s) (what is termed its "WMD law") to New Delhi some time ago. Has the Government of India answered all of those questions, and could you please furnish (a) those questions and (b) answers to this Committee?

**Answer:**

Given the sensitivities of the diplomatic communications involved, we cannot provide the information for the record. However, we would be happy to provide the committee with a briefing on our exchanges with India on this issue. We intend to have follow-on discussions regarding the implementation of the WMD law within the High Technology Cooperation Group meetings in early December 2005.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#4)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Does Indian law specify anything with regard to the re-export or re-sale of foreign-origin dual-use equipment?

**Answer:**

As we understand the Indian legislation, export from India of foreign-origin dual-use equipment exported to India, if of types covered<sup>4</sup> by India's own control list and catch-all controls, would be subject to the same requirements that apply to export of Indian-origin goods.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#5)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

What does Indian law specify about the access of either foreign nationals or dual-nationals to sensitive items exported from other nations to India?

**Answer:**

India's new WMD Law deals specifically with the possession, export, re-export, transfer and other conveyance or trafficking of WMD and their delivery systems, their components, and related technology by Indian and foreign nationals. The law, however, does not address access by foreign nationals or dual nationals to such items or technology in the course of those individuals' legitimate employment in India.

Clause 13(4) of the WMD Law seems to address in-country transfers of items to foreigners, but the operation of this provision is not entirely clear.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#6)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Do any foreign nationals or dual-nationals work at or have access to sites currently subject to IAEA safeguards in India (Rajasthan 1 & 2 and Tarapur 1 & 2)?

**Answer:**

We do not have sufficient information as to which specific foreign nationals may work or have access to these facilities. In general, however, IAEA inspectors, who are foreign nationals, have access to Rajasthan 1 & 2 and Tarapur 1 & 2, since these sites are subject to IAEA safeguards. The Indians have also granted Nuclear Regulatory Commission (NRC) delegations limited access to those facilities, most recently in February 2005. Additionally, the World Association of Nuclear Operators (WANO) is able to conduct peer reviews at these sites.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#7)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Do any foreign nationals or dual-nationals work at or have access to the Indian nuclear facilities Kundankulam 1 and 2?

**Answer:**

We do not have sufficient information as to which specific foreign nationals may work or have access to these facilities. In general, however, Kundankulam 1 & 2 are being constructed under a contract between India and the Russian Federation, so we presume that Russian nationals have access to these sites. IAEA inspectors, who are foreign nationals, will eventually have access to Kundankulam 1 & 2, once they are placed under IAEA safeguards.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#8)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Do any foreign nationals or dual-nationals work at or have access to the Indian Space Research Organization (ISRO) Headquarters in Bangalore, India; ISRO Telemetry, Tracking and Command Network (ISTRAC); ISRO Inertial Systems Unit (IISU), Thiruvananthapuram; Liquid Propulsion Systems Center; Solid Propellant Space Booster Plant (SPROB); Space Applications Center (SAC), Ahmadabad; Sriharikota Space Center (SHAR); Vikram Sarabhai Space Center (VSSC), Thiruvananthapuram?

**Answer:**

We do not have sufficient information as to which, if any, foreign nationals may work or have access to these facilities. We stand ready to discuss this and other considerations relating to these organizations further with the Committee in a separate classified forum.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#9)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Do any foreign nationals or dual-nationals work at or have access to The following Indian Department of Atomic Energy entities: Bhabha Atomic Research Center (BARC); Indira Gandhi Atomic Research Center (IGCAR); Indian Rare Earths; Nuclear reactors (including power plants) not under International Atomic Energy Agency (IAEA) safeguards, fuel reprocessing and enrichment facilities, heavy water production facilities and their collocated ammonia plants?

**Answer:**

We do not have sufficient information as to which, if any, foreign nationals may work or have access to these facilities. We stand ready to discuss this and other considerations relating to these organizations further with the Committee in a separate classified forum.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#10)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:** Does Indian law contain “catch-all” controls on items not otherwise stipulated in national controls?

**Answer:**

Clause 11 of the 2005 WMD Law prohibits export of any material, equipment, or technology if the exporter knows that the exported items are intended for use in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon, or other nuclear explosive device, or in their missile delivery systems, but does not specifically refer to transfers, retransfers, items brought in transit or transshipment. We read Clause 11 of the 2005 WMD Law as a catch-all provision similar to the “knows” portion of the U.S. catch-all control provisions. Clause 5 of the 2005 WMD Law may provide the equivalent of the “is informed” portion of the U.S. catch-all controls over exports, re-exports, transshipments, and transits.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#11)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Have there been successful prosecutions of entities or persons brought by the Government of India for violations of its export control laws?

**Answer:**

The Government of India has been actively prosecuting the Indian entity NEC Engineers Private Ltd.'s cooperation with Iraq. According to Indian press reports, NEC sent ten shipments containing titanium vessels, filters, titanium centrifugal pumps, atomized and spherical aluminum powder, and titanium anodes to Iraq. The NEC prosecution is ongoing.

We do not have information on other examples of Indian prosecutions regarding violations of its export control laws. One reason for this is that, before India passed its WMD law this year, its governmental authority over such export activities was relatively limited. India's new WMD Law has

greatly increased its ability to hold its entities and individuals accountable for activities that impinge on nonproliferation practices.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#12)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Did India pursue any action (civil or criminal) against Dr. Y.S.R. Prasad and Dr. C. Surendar after the United States sanctioned them under the authority of the Iran Nonproliferation Act of 2000 (P.L. 106-178)?

**Answer:**

We understand that India investigated the activities of the retired scientists Dr. Y.S.R. Prasad and Dr. C. Surendar after the U.S. imposed sanctions on them in September, 2004. As far as we are aware, India did not pursue any civil or criminal action against Drs. Prasad or Surendar.



**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#13)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

Does the United States have any information that Indian entities or persons in the United States have engaged in attempts to falsify necessary *bona fides* in transactions with U.S. entities or persons?

**Answer:**

Any such activities would be regarded as a law enforcement matter in this country. Any such matters would need to be addressed to the Department of Justice, Department of Commerce, and/or the Department of Homeland Security.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#14)  
Senate Foreign Relations Committee  
November 2, 2005**

India's Export Control Laws, Regulations and Policies

Secretary Joseph:

**Question:**

In oral remarks made at the Department of Commerce's annual Bureau of Industry Security (BIS) "Update" Conference recently held in Washington, DC, Steven Goldman, director of the BIS Office of Nonproliferation and Treaty Compliance, stated that "India has modified its approach, has made major commitments, in many respects commitments that exceed those of our closest allies".<sup>1</sup>

Do you concur with this assessment, and if so, how does India exceed the nonproliferation commitments made by our closest allies, in particular, those who are nuclear weapon states (such as the United Kingdom) under Article I of the NPT?

**Answer:**

The Department of State agrees that India has made major commitments which, when implemented, will bring it closer into conformity with nonproliferation standards and practices. India has committed to a number of important nonproliferation steps. Some of these steps exceed NPT requirements, such as India's export-restraint of enrichment and

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<sup>1</sup> As found at [http://www.exportcontrolblog.com/blog/2005/10/update\\_day\\_one\\_4.html](http://www.exportcontrolblog.com/blog/2005/10/update_day_one_4.html).

reprocessing technologies and its willingness to sign and adhere to an  
Additional Protocol.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

RMP Facility

Secretary Joseph:

**Question:**

Do you concur with the assessment of alleged Indian attempts to illicitly acquire certain dual-use nuclear technology provided by David Albright during testimony before the House on October 26, 2005? Which states in relevant part:

*Indian nuclear organizations use a system that hires domestic or foreign non-nuclear companies to acquire items for these nuclear organizations. Such procurement appears to continue for its secret gas centrifuge enrichment plant near Mysore. In an attempt to hide its true purpose from suppliers and others when it started this project in the 1980s, India called the facility the Rare Materials Plant (RMP) and placed it under Indian Rare Earths (IRE) Ltd, an Indian Department of Atomic Energy company focused on mining and refining of minerals. Since the mid-1980s, IRE has served as a management company for RMP and appears to be the declared end-user of its procurements of centrifuge-related equipment and materials.<sup>2</sup>*

**Answer:**

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<sup>2</sup> Available at [http://wwwc.house.gov/international\\_relations/109/alb102605.pdf](http://wwwc.house.gov/international_relations/109/alb102605.pdf).

We cannot comment in any detail in unclassified channels on assessments of activities of Indian entities or facilities. We could discuss further in classified session.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

RMP Facility

Secretary Joseph:

**Question:**

What is the purpose of the RMP facility?

**Answer:**

We cannot comment in any detail in unclassified channels on assessments of activities of Indian entities or facilities. We could discuss further in classified session.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#3)  
Senate Foreign Relations Committee  
November 2, 2005**

RMP Facility

**Secretary Joseph:**

**Question:**

The Commerce Department issued revised U.S. regulations for balance of plant exports to certain Indian entities last September.<sup>3</sup> The Indian Department of Atomic Energy entity called “Indian Rare Earths” is named in those FR notices, but could you please explain for the record the current regulatory treatment provided to the entity Indian Rare Earths under current law and regulation?

**Answer:**

The September 22, 2004 regulatory change did not change the regulatory treatment for Indian Rare Earths. India Rare Earths is still a listed entity under Commerce regulations, as it has been since the sanctions were imposed in 1998. Therefore, under the Export Administration Regulations, exporters need to apply for licenses to export even uncontrolled commodities to this end-user.

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<sup>3</sup> 69 FR 56,693 (2004), revised in 69 FR 58,049 (2004).

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1a)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

India's vote in favor of IAEA Board of Governors (BOG) Resolution GOV/2005/77 was seen by some as a departure from its traditional siding with developing countries in multilateral fora.

Prior to the vote, it had been my understanding that the goal of the United States and the EU Three at that BOG meeting was to report Iran's noncompliance to the UN Security Council.

Indian officials have taken credit for preventing such a report by supporting language that found Iran's noncompliance "within the competence of the Security Council." An earlier Indian Ministry of External Affairs press release regarding a telephone conversation between Indian Prime Minister Singh and Iranian President Ahmadinejad stated that "India supports the resolution of all issues through discussion and consensus *in the IAEA*."

(a) What were the reasons India did not support reporting Iranian noncompliance to the Security Council at the last meeting of the BOG?

**Answer:**

India voted for a resolution that requires a report to the United Nations Security Council (UNSC) and finds Iran in noncompliance with its NPT



safeguards obligations under Article XII.C of the IAEA Statute. However, the timing and content of this report to the UNSC are still to be determined.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1b)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

India's vote in favor of IAEA Board of Governors (BOG) Resolution GOV/2005/77 was seen by some as a departure from its traditional siding with developing countries in multilateral fora.

Prior to the vote, it had been my understanding that the goal of the United States and the EU Three at that BOG meeting was to report Iran's noncompliance to the UN Security Council.

Indian officials have taken credit for preventing such a report by supporting language that found Iran's noncompliance "within the competence of the Security Council." An earlier Indian Ministry of External Affairs press release regarding a telephone conversation between Indian Prime Minister Singh and Iranian President Ahmadinejad stated that "India supports the resolution of all issues through discussion and consensus *in the IAEA*."

(b) Under what circumstances would India support reporting Iranian noncompliance to the Security Council?

**Answer:**

In its support for IAEA BOG Resolution GOV/2005/77, India endorsed sending a report to the Security Council. The contents of the report and the timing of transmitting the report are unclear at this point. In our view, it would not be useful to speculate further on this hypothetical question.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1c)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

India's vote in favor of IAEA Board of Governors (BOG) Resolution GOV/2005/77 was seen by some as a departure from its traditional siding with developing countries in multilateral fora.

Prior to the vote, it had been my understanding that the goal of the United States and the EU Three at that BOG meeting was to report Iran's noncompliance to the UN Security Council.

Indian officials have taken credit for preventing such a report by supporting language that found Iran's noncompliance "within the competence of the Security Council." An earlier Indian Ministry of External Affairs press release regarding a telephone conversation between Indian Prime Minister Singh and Iranian President Ahmadinejad stated that "India supports the resolution of all issues through discussion and consensus *in the IAEA*."

(c) Is it the Administration's position that Iran's noncompliance should be reported to the Security Council?

**Answer:**

The United States has long expressed the view that the Iran should be reported to the United Nations Security Council. At the International Atomic Energy Agency's (IAEA) Board of Governors meeting on

September 24, India voted -- along with the United States and our EU-3 partners -- in favor of a resolution that requires a report to the United Nations Security Council and finds Iran in noncompliance with its NPT safeguards obligations under Article XII.C of the IAEA Statute. In addition, for the first time, the IAEA Board concluded with this resolution that Iran's pattern of deception and denial, continued lack of cooperation with the IAEA, and continued pursuit of nuclear fuel cycle capabilities in defiance of the international community, is a matter that falls within the competence of the United Nations Security Council, under Article III.B.4 of the IAEA Statute.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1d)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

India's vote in favor of IAEA Board of Governors (BOG) Resolution GOV/2005/77 was seen by some as a departure from its traditional siding with developing countries in multilateral fora.

Prior to the vote, it had been my understanding that the goal of the United States and the EU Three at that BOG meeting was to report Iran's noncompliance to the UN Security Council.

Indian officials have taken credit for preventing such a report by supporting language that found Iran's noncompliance "within the competence of the Security Council." An earlier Indian Ministry of External Affairs press release regarding a telephone conversation between Indian Prime Minister Singh and Iranian President Ahmadinejad stated that "India supports the resolution of all issues through discussion and consensus *in the IAEA*."

(d) Does the Administration consider Iran's July-August 2005 resumption of uranium conversion activities at UCF-Isfahan to be a breach of its suspension of fuel-cycle activities agreed to with the EU Three?

**Answer:**

Yes. Under the November 2004 Paris Agreement, Iran agreed "on a voluntary basis, to continue and extend its suspension to include all

enrichment related and reprocessing activities, and specifically: the manufacture and import of gas centrifuges and their components; the assembly, installation, testing or operation of gas centrifuges; work to undertake any plutonium separation, or to construct or operate any plutonium separation installation; and all tests or production at any uranium conversion installation.” Iran’s uranium conversion activities represent a breach of its commitments under the Paris Agreement with the EU-3 and defy the September 24 IAEA Board resolution, which called on Iran to suspend all enrichment-related activity including uranium conversion.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1e)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

India's vote in favor of IAEA Board of Governors (BOG) Resolution GOV/2005/77 was seen by some as a departure from its traditional siding with developing countries in multilateral fora.

Prior to the vote, it had been my understanding that the goal of the United States and the EU Three at that BOG meeting was to report Iran's noncompliance to the UN Security Council.

Indian officials have taken credit for preventing such a report by supporting language that found Iran's noncompliance "within the competence of the Security Council." An earlier Indian Ministry of External Affairs press release regarding a telephone conversation between Indian Prime Minister Singh and Iranian President Ahmadinejad stated that "India supports the resolution of all issues through discussion and consensus *in the IAEA.*"

(e) Does the Indian Government consider Iran's July-August 2005 resumption of uranium conversion activities at UCF-Isfahan to be a breach of its suspension of fuel-cycle activities agreed to with the EU Three?

**Answer:**

We do not know whether India considers Iran in breach of the Paris agreement, an agreement between Iran and the EU-3. Certainly, the EU3 considers Iran in breach.



**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

I understand that India has a formal defense cooperation agreement with Iran. Has the Department been provided with a copy of that Agreement, and if so, could you please furnish it to this Committee?

**Answer:**

We do not know of a formal defense cooperation agreement between Iran and India. A Memorandum of Understanding between the Government of the Republic of India and the Government of the Islamic Republic of Iran on Road Map to Strategic Cooperation, was signed on January 23, 2003 in New Delhi by the previous administrations in both countries. According to the Indian Ministry of External Affairs, this MOU set out, among other things, “to agree to explore opportunities for cooperation in defense in agreed areas, including training and exchange of visits.”

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

India and Iran

Secretaries Burns and Joseph:

**Question:**

Public reports in late 2004 suggested that India was considering the sale to Iran of an advanced radar system known as “Super Fledermaus,” a system capable of detecting low-flying objects such as the unmanned aerial vehicles (UAVs) the United States frequently uses to conduct surveillance operations. The radar system is produced by Bharat Electronics Limited (BEL) under license from Ericsson Radar Electronics, a U.S. firm.

- (a) Has India decided not to proceed with this sale?
- (b) Do you know of other significant defense equipment sales to Iran being considered by India?

**Answer:**

- (a) We understand that the sale of the Super Fledermaus system has not occurred.
- (b) We do not know of other significant defense equipment sales to Iran being considered by India.

**Questions for the Record Submitted to  
Under Secretaries Nicholas Burns and Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

Interaction with Other Nonproliferation Policies and Countries

Secretaries Burns and Joseph:

**Question:**

Could you please explain how the policy the Administration adopted in the Joint Statement is consistent with other Administration policies and statements regarding the ongoing crises of noncompliance in North Korea and Iran?

**Answer:**

The Joint Statement represents a carefully tailored approach that helps solve a real-world nonproliferation issue: how to integrate the world's largest democracy and rising 21<sup>st</sup> power into the nonproliferation mainstream.

We need to adjust our approaches to take into account the conditions that exist, so that we can achieve our nonproliferation objectives. This has been a premise of Administration policy since the outset of President Bush's first term, in which he established non- and counterproliferation as top national security priorities. Recognizing that traditional nonproliferation measures were essential but no longer sufficient, the President has

established new concepts and new capabilities for countering WMD proliferation by hostile states and terrorists.

There is no comparison between India's nonproliferation history and energy needs, and the compliance violations incurred by Iran and North Korea.

Our position on Iran's nuclear program is well known and is unrelated to our increasing cooperation with India. We do not want to see any additional states developing nuclear weapons, whether Iran, North Korea, or others. Iran's compliance violations are a national security concern to the United States and many of its international partners – not just the EU3. Indeed, India's September vote in the IAEA Board of Governors which found Iran in non-compliance with its nuclear nonproliferation obligations, demonstrated India's coming of age as a partner in global nonproliferation efforts.

Further, our understanding with India should not affect the Six-Party Talks in any way. India has taken a number of steps to deepen its commitment to nonproliferation and did not violate the NPT in order to pursue its nuclear weapons ambitions since it was not a Party to the Treaty. There can be no comparison of North Korea's record with that of India.

North Korea has violated its NPT and IAEA safeguards commitments; it must abandon its nuclear weapons program.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#1)  
Senate Foreign Relations Committee  
November 2, 2005**

Proliferation Security Initiative

Secretary Joseph:

**Question:**

Why has India not joined the Proliferation Security Initiative (PSI)?

**Answer:**

The United States has encouraged India to join PSI, given its geographic location along several key routes for proliferation trafficking and its significant operational capabilities in the region. Officials of the Government of India have told us that they are continuing their internal review of PSI, including an examination of the international and national legal underpinnings for their possible participation in PSI. We are hopeful that India will soon endorse PSI, and join the more than 70 countries around the world -- and United Nations Secretary General Kofi Annan -- that have expressed their support for PSI.

**Questions for the Record Submitted to  
Under Secretary Robert Joseph by  
Chairman Richard G. Lugar (#2)  
Senate Foreign Relations Committee  
November 2, 2005**

Proliferation Security Initiative

Secretary Joseph:

**Question:**

What are the views of the Government of India on the Statement of Interdiction Principles?

**Answer:**

Officials of the Government of India have told us that they are continuing their internal review of PSI, including an examination of the international and national legal underpinnings for their possible participation in PSI. We are hopeful that India will soon endorse the PSI Statement of Interdiction Principles, and join the more than 70 countries around the world -- and United Nations Secretary General Kofi Annan -- that have expressed their support for PSI.

