

**CARNEGIE ENDOWMENT
FOR INTERNATIONAL PEACE**

**CARNEGIE INTERNATIONAL
NONPROLIFERATION CONFERENCE**

2:00 – 3:00 P.M.

**FORGING NONPROLIFERATION CONSENSUS
AFTER U.S.-INDIAN CIVIL NUCLEAR COOPERATION**

CHAIR:

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**MONDAY, JUNE 25, 2007
RONALD REAGAN BUILDING
AND INTERNATIONAL TRADE CENTER
AMPHITHEATER
WASHINGTON, D.C.**

*Transcript by:
Federal News Service
Washington, D.C.*

SHARON SQUASSONI: Welcome. Good afternoon. I'm Sharon Squassoni, senior associate with the Carnegie Endowment for International Peace. We have a very distinguished panel today to discuss forging nonproliferation consensus after a U.S.-India nuclear cooperation agreement.

You may be asking yourself, why focus on after the deal, since the agreement is not yet done? There are still many steps to be taken. The peaceful nuclear cooperation agreement must be finalized between the U.S. and India, and presently, there are several areas still to resolve. India must negotiate an IAEA safeguards agreement, and the board of governors must approve that. India must make progress in negotiating an additional protocol. The Nuclear Suppliers Group must decide by consensus to allow nuclear trade with India. And finally, the U.S. Congress must approve a peaceful nuclear cooperation agreement with a joint resolution of approval.

Now, these steps might not present such challenges if nuclear cooperation with India did not constitute a dramatic shift in U.S. non-proliferation policy, in NSG guidelines, and in interpretations of the basic bargains within the NPT. But, today, rather than focus on the status of the negotiations or the pros and cons of this initiative, I asked the panel to be a little more reflective about what this means for the nuclear nonproliferation consensus, which is so critical to all our efforts to stem proliferation.

On our panel today, we have Bob Einhorn, who is a senior advisor in the International Security Program at CSIS. You have all their bios in front of you, but Bob had 29 years in the government, and his last position was Assistant Secretary for Nonproliferation in the State Department.

Following Bob, Ambassador Jaishankar will speak. He is currently the High Commissioner of India in Singapore, and he has led the negotiations on the Indian side for the, what they call the Section 123 agreement.

And last but not least, we will have Peter Potman, the political counselor at the Royal Netherlands Embassy, and among Peter's assignments, he has been the Deputy Head of Nuclear Affairs in the Nonproliferation Division at the Ministry of Foreign Affairs and also served in the conference on disarmament in Geneva.

So I'd like to ask you all now to turn off your cell phones. After all the speakers have made their presentations, we'll have questions, and thanks for your attention.

ROBERT EINHORN: Thank you very much, Sharon. We just heard the British foreign secretary say that the nuclear nonproliferation regime is under pressure. I would agree with her, and I'll mention a few reasons why the regime is under pressure.

The international community has failed – at least, so far – to enforce compliance by North Korea and Iran. There are fears that a nuclear-armed North Korea and Iran could trigger a reconsideration of nuclear options and could trigger cascades of proliferation in the Middle East and East Asia. The nonproliferation regime has not yet fully adapted to the challenges posed by non-state actors, whether non-state suppliers like A. Q. Khan or non-state demanders like al Qaeda.

The nuclear weapons states, especially the U.S. and Russia, have not done enough to reduce their nuclear arsenals. Indeed, several nuclear powers appear to be relying more, not less, on nuclear weapons to promote their foreign policy and national security objectives. And in general, there's a growing nonproliferation pessimism -- the belief that further proliferation is inevitable and stopping it is futile.

In addition to those reasons for regime under pressure, there are the risks associated with the U.S.-India Civil Nuclear Cooperation Deal. One such risk of the U.S.-India Deal is that some countries, who are under pressure to consider going nuclear, will now calculate that the costs of going nuclear are manageable, that the U.S. and the rest of the international community will eventually welcome them into the nuclear weapons club.

At a meeting I attended about a month ago in Tokyo, a Japanese expert said Japan would never acquire nuclear weapons because that would end any ability by Japan to import nuclear equipment and materials for its civil nuclear program. He said that would be unacceptable because Japan relies on nuclear power for over 30 percent of its electricity. But another Japanese expert intervened to say that after the U.S.-India Deal, that was no longer necessarily the case. The U.S. would show understanding for the needs of its close ally, Japan.

A second risk of the U.S.-India deal is that countries will be more likely to conclude that the nonproliferation rules can be bent or ignored when they conflict with foreign policy or commercial interests. For example, had it not been for the U.S.-India deal, it's very unlikely that Russia would have supplied fuel for India's Tarapur reactors a little over a year ago, in the absence of a consensus by the Nuclear Suppliers Group.

Another risk of the U.S.-India deal is that it will result in a substantial increase in fissile material stocks worldwide, which in turn will make it more difficult and expensive to secure nuclear materials against theft or seizure. By allowing India to import uranium for its civil program, the deal will free up India's limited uranium reserves for its nuclear weapons program.

In fact, some Indian commentators see this as the major benefit of the deal. And Pakistan clearly remains determined to keep pace with India's production of nuclear weapons material. And sooner or later, China may eventually decide that it needs to resume its production of fissile material. Of course, it's too early to tell whether these and other potential risks of the U.S.-India deal will materialize. Just as it's too early to tell whether the advertised strategic benefits of the deal will materialize.

But whatever one may think about the U.S.-India deal, there's broad agreement that the nonproliferation regime is currently under pressure. And the question before the panel is how to alleviate that pressure, how to forge a new nonproliferation consensus. One answer to this question is to replace the outmoded NPT with a new arrangement. And this is an answer I sometimes hear from my Indian friends.

Their hope is to correct a long standing mistake that arbitrarily and permanently regulated them to second-tier status and to replace it with an arrangement that allows them to assume their rightful place as a responsible technologically advanced state with the right to possess nuclear weapons.

Now, this Indian desire is understandable. The NPT had permanently frozen the nuclear status quo. And India's 1974 nuclear test fell on the wrong side of the January 1967 cutoff date that defines who would be a nuclear weapons state authorized by the NPT. But while the desire by India or some Indians to replace the NPT may be understandable, it would be a huge mistake to start from scratch or even to try to renegotiate key elements of the treaty.

The issues of nonproliferation, disarmament, and the peaceful uses of nuclear energy have become so polarized that seeking to replace or change the NPT would destroy the old system without any assurance that a better system could be put in its place. A far better approach is to do what has always been done: regard the NPT as necessary but insufficient and supplement the treaty with formal and informal measures that enable the overall nonproliferation regime to close gaps, correct deficiencies, and keep up with an evolving international security environment.

Examples of such measures include the Nuclear Suppliers Group, Proliferation Security Initiative, the IAEA, additional protocol, Nunn-Lugar Cooperative Threat Reduction Assistance Programs, and U.N. Security Council Resolution 1540. All countries should play a role in devising such measures in shoring up the NPT regime and helping it to adapt to new circumstances. But because this panel is charged with dealing with the United States and India, I'll focus on what these two countries can do, not everything that they can do, but a few things where they bear a special responsibility.

And first let me talk about the United States. First, the U.S. should give high priority to discouraging countries that feel threatened by the prospect of nuclear armed North Korea and Iran from deciding to acquire their own nuclear deterrent. The U.S. has a special responsibility in this regard because most of those countries are friends or allies of the United States; namely, Japan and South Korea in East Asia and Turkey, Saudi Arabia, and Egypt in the Middle East, just to name a few.

The U.S. needs to do whatever it can to reassure those countries that the American commitment to their security remains intact and reliable. Second, the U.S. should work with other countries and with the IAEA to establish a new global nuclear energy infrastructure that enables countries to meet growing energy needs without bearing the

excessive economic burden or creating the proliferation risks associated with pursuing indigenous nuclear fuel cycle capabilities.

Third, the U.S. should demonstrate that it's taking its NPT Article 6 obligation seriously and should work with the Russians on a legally binding agreement that would replace START I and reduce their nuclear forces far below the levels contained in the 2002 Moscow Treaty. It should also adopt a new declaratory policy that substantially restricts the contingencies in which it would reserve the right to use nuclear weapons. And in general, it should reduce the salience of nuclear weapons in its national security policies.

What then can India do? First, having achieved most of its objectives with the U.S.-India civil nuclear deal, it should resist the temptation to keep pressing on old grievances and insisting on remaking the nonproliferation regime on its own terms. To paraphrase President John F. Kennedy, it should ask not what the nonproliferation regime can do for India but what India can do for the nonproliferation regime.

Second, it should play a more energetic role in helping resolve the most difficult proliferation challenges we face today, particularly Iran. Being a leader in global nonproliferation efforts involves more than adopting effective export controls and casting a couple of positive votes in the IAEA board of governors. In dealing with Iran, it means using available influence and leverage to persuade Iran to suspend its fuel cycle programs.

Like India, Russia, and China want good relations with Iran. But both have worked hard in private to dissuade Iran from pursuing an enrichment capability. And so far I've seen no indication that India is doing the same. Finally, India should join the other nuclear powers in accepting limitations on its strategic programs.

Indians often take umbrage at suggestions that India should practice strategic restraint. They argue that India shouldn't be penalized for being a latecomer to the nuclear weapons club and should be given the opportunity to make up for lost time. But India's strategic programs didn't start yesterday. India's been producing fissile material and developing missile delivery systems for decades.

In the wake of the May '98 nuclear tests, senior Indian officials claimed that India did not seek nuclear parity with China or anyone else. It only sought a credible minimum deterrent capability. But India's insistence in negotiations with the U.S. to keep open options for a major increase in fissile material production raises the question of whether India's strategic goals have expanded in recent years.

In July 2005, the U.S. and India agreed that they would work together to help negotiate a multilateral fissile material cut-off treaty. If this agreement was more than lip service then perhaps India could join with the other six declared nuclear powers in adopting a multilateral moratorium on fissile material production pending completion of a verifiable FMCT. In 1988, Indian Prime Minister Rajiv Gandhi, proposed a time-bound

program for eliminating nuclear weapons and a series of practical steps leading up to that goal.

A few months ago, four prominent Americans, often associated with hawkish positions on national security issues, mentioned this morning by Jessica Mathews, Perry, Nunn, Schultz, Kissinger, wrote an op-ed piece for the Wall Street Journal calling for adoption of the goal of a world without nuclear weapons and also recommending practical steps for achieving that goal.

An important contribution that the U.S. and India could make to forging a new nonproliferation consensus, would be to explore together and with other interested states how those two similar visions could be realized. In the last two years, U.S. and Indian interactions on nonproliferation issues have been monopolized by efforts to flesh out their July 2005 deal and to conclude a so-called 123 agreement.

Assuming that a 123 agreement will be reached and that the IAEA and Nuclear Suppliers Group hurdles will also be overcome, it will be essential that U.S. India efforts turn to shoring up the nonproliferation regime including by minimizing the potential damage done by their bilateral, civil nuclear deal.

In my view, the further proliferation of nuclear weapons is not inevitable. But if proliferation is to be stopped, the International community will have to act in concert and decisively in forging a new nonproliferation consensus. The roles of the United States and India will be crucial. Thank you.

(Applause.)

MS. SQUASSONI: Is this working? Thanks, Ambassador Jaishankar.

AMBASSADOR S. JAISHANKAR: Good afternoon. It's a little depressing when you're called for a conference and you come in and they give a report card, which reads a D- for your two years of work. (Laughter.) Having said that, I take consolation from the fact that the title of the panel expresses confidence in the fact that we'll get the deal done and I'm sure that Sharon would renegotiate those grades after the session is over. (Laughter.)

Now, what I'd like to do today is to really stick with what she asked me to do, highlight the contribution that India can make to the nonproliferation consensus so I'd like to start, really, on a hypothetical note – and I'm waiting for my slide to come on. All right.

The question, which we might all stop and consider for moment before we actually look at what the nonproliferation consensus is, and bear in mind I actually accept that there is a broad nonproliferation consensus, is that the consensus obtains from the NPT. Now, Article IX, as Bob reminded us, defines who the nuclear weapons states were.

What would have happened if we had concluded the nonproliferation treaty a few years earlier than we did? Now, would we have lived with the N5 and P5 not being congruent powers? Would the NPT have been amended? Would that non-congruence been allowed to continue? That's very interesting thought, particularly today, when we are looking at relatively an unorthodox solution for sustaining the nonproliferation consensus.

Now, since that didn't happen, we'll never know. But let's talk a little bit about what did actually happen. And what did actually happen, as my next slide would demonstrate, is that over the years, the nonproliferation consensus actually evolved very substantially. What has happened since 1970? We've had questions of NWS compliance with Article I of the own transfers. We've had violations of Article II on receiving transfers by an NWS. The practice of safeguards in Article III has been strengthened. Article IV, on peaceful purposes, today there is a big debate about restrictions on full civil nuclear cycle transfers. Article V, on PNEs, has been made irrelevant. Article VI – and this is a point, which we could debate later on – is seen by many people as wishful thinking, even though I think from the Indian perspective, we still believe strongly in it. And the freedom to withdraw under Article X is being debated.

Now, it isn't just in the articles – there's been an evolution not only in the articles of the NPT but the concepts of the NPT. In fact, nonproliferation processes have also evolved in the last 30-odd years. Now, we all began in 1970 with the assumption that the NPT would be a self-enforcing treaty, which clearly proved to be somewhat incorrect.

Since the 1970s, we've had technology denial regimes as a strategy of nonproliferation. Their limitations have been exposed. We've also had international initiatives of more activist character. Not all of them universally accepted and really, you have a situation today where informal structures – and the NSG is in fact a very good example of that – play a much greater role in building and maintaining and evolving a nonproliferation consensus.

So briefly, the debate – some of the issues of the debate that is underway today on the nonproliferation consensus, they pertain – I've given three examples here. One, the denial of enrichment and reprocessing technologies to countries that don't possess them. Then there is opposition, at least on the part of some part of one country, to reprocessing of spent fuel. And the whole issue of criteria for nuclear trades and transfers is also something that's being debated.

Now, here I'd like to make three important points. One, that nuclear suppliers have not followed uniform practices and approaches. Two, that the NPT itself doesn't prohibit cooperation with a non-state party. Now, in the case of India, in fact, since the NPT was signed, we've had international cooperation in transfer of civilian nuclear technology and equipment. And therefore, this is something when we are looking at innovative approaches today. It's something, which should be focused upon.

And the nonproliferation consensus, in my view, was not cast in stone. It never was. And today, I think it's important to underline the Indian position that we don't deny that there is a consensus. We believe that there is, as I stated at the very beginning, we believe that there is a broad consensus and that we are in fact in a position to contribute to strengthening that consensus.

Now, what I would politely call the theological take on this debate is very different. What that take does as part of the debate which has followed the July 18th understanding with the United States. It has divorced the nonproliferation from a political context because bear in mind, the NPT is a very political document. That evolution that we spoke about in various articles in their concepts and the implementation in new structures and organizations being set up to enforce it, all of this is extremely political.

So a problem that we face today in the debate, is do we look at the substance without the political context? The second point – the immutability of the rules of the games I have addressed by pointing out to the evolution. Third, there is a tendency as part of the debate to actually advance national practices as universal practices. And a very good example of this would be reprocessing.

The United States, in fact, has a very unique position on reprocessing. It is not a position, which by any standard, is universal. In fact, it is not even a consistent policy on the part of the United States. But in the theological take, it acquires a degree of consistency and immutability.

And finally, the distinction between laws and policies. This is something, which pertains to the discussions, which are presently going on, on the 123 agreement.

Now, the resulting consequence is actually to give you very little leeway to work out an unorthodox approach. Now, I keep stressing the word unorthodox because the point I wish to stress is we are the Indo-U.S. nuclear understanding is unorthodoxy. It is not heresy. It is not something, which is fundamentally inimical to the nonproliferation consensus. And why do I say that?

I say that because India is, in its own eyes, very much a member of the consensus, even if it is outside the NPT. We have been very respectful of the norms of the consensus. We have an exemplary export control record. I don't believe that minimizing that export control record is justified. I think when countries do have – we have seen what happens when countries don't have an exemplary export control record. So I won't take it as something for granted. We have a very good safeguards record. That's also an important point to be taken into account.

And in terms of restraint, we are committed to credible minimum deterrent and we do have a no first use policy. Now, the July 18th understanding was predicated on the responsible record, which I have brought out, and I think the key question today is, is the world better off with India as part of the solution or is the world not better off with that?

So do we want the status quo to continue? I think clearly there are divided opinions on this, at least I think where significant segments of the nonproliferation of the community are concerned. We would hope that they take into account Mr. ElBaradei's view expressed, I think, at this very forum two years ago that this would be a net gain for nonproliferation.

Now, I refer to India being part of the consensus. I would also press the point further and say that we are willing to actually join in building a new consensus. We are prepared to assume the responsibilities and practices of states with advanced nuclear technology. And, in fact, many of the commitments that we have undertaken in that context have been spelt out. They are in the slide before you. This includes separating our civilian reactors from our military ones. It includes accepting voluntary safeguards and additional protocol, continuing unilateral moratorium on nuclear testing. All of these are additional commitments, which we had committed to on July 18th.

We've also committed to work with the U.S. on conclusion of an FMCT, on refraining from transferring enrichment reprocessing technologies, limiting the spread, and harmonizing and adhering to NSG and MTCR guidelines. So the issues that face the international community today, I think, first of all, these issues should be seen in a larger political context. In the context of India's growing interactions with the world, its growing engagement to the world, and some of the issues, which need to be factored into this debate include whether global involvement challenges can be addressed without greater Indian reliance on nuclear energy.

Whether in fact technology denials can co-exist with the globalizing Indian economy -- I think that is a point which often doesn't come across in that debate because the nuclear technology denial regimes actually vitiate the entire technology split. So their impact is not limited to the nuclear sector alone. I think from the Indian perspective, it is hard, even for us internally, to sell a message that we are both partners and targets of a nonproliferation consensus at the same time. We have our own logical processes, but being schizophrenic frantic is not one of them.

And I think the practical issue is that we have today to develop habits of cooperation. When we talk about nonproliferation, nonproliferation is not just a treaty. It's not just a declaration. It is about a system interacting with other systems. It means having your customs authorities work with other people. Your export licensing authorities work with other people. You know, sharing of information. It really means a degree of intergovernmental, interstate engagement. And the practical problem, which I think conference like this should consider. Does India bring value by engaging in that manner? I think that's really the issue at stake.

Now, as the 123 negotiator, I'm obviously confident that we will get the job done. But I would caution here that when we look at the consensus in the name of strengthening the international consensus, it would be very unfortunate if the goal posts are shifted, if

new demands are made, because I think the terms of India's engagement are spelled out very clearly in the July 18th understanding.

So today, when we hear very "helpful" suggestions made about how India can further contribute to the strengthening the nonproliferation consensus, I think in a sense, what you see in the July 18th understanding is really what you're going to get. So my expectation is that on an understanding of this value – it's obviously very important for us -- we believe that we can credibly present a case to the international community, that our engagement is helpful to a global nonproliferation consensus, and we are quite confident that in its time, the NSG will make the right decision. Thank you very much.

(Applause.)

MS. SQUASSONI: Thank you, Ambassador. Peter.

PETER POTMAN: Good afternoon, ladies and gentlemen. I'm thrilled to be given the opportunity to share the stage with such eminent experts as Sharon and Bob and Ambassador Jaishankar. I'm also painfully aware that this is the same stage where the Capitol Steps do their performance and I'm afraid that I won't be half as funny as they usually are. But having said that, I will try to give you a non-nuclear weapon state's perspective on the U.S.-India Nuclear Deal, which is at some stage to become the India Nuclear Deal if it's passed all the hurdles.

Unlike many government representatives in these sorts of fora, I will not start by saying that what I say are my own views and can in no way, shape, or form be attributed to my government. I made sure that they agreed to what I was about to say. If, after all, I say things that don't balance, they would have preferred me to say differently, obviously, we will say that there was a misunderstanding. (Laughter.)

The issues today are not academic. They're political, topical, sensitive, and very important for the future of the multilateral nonproliferation regime that my country, for one, holds dearly. I will address three aspects of the India nuclear deal that I believe are essential if it's consummation of the deal, that is, is to be beneficial or at least will not harm the overall nonproliferation system. And the three points that I will address in somewhat more detail, briefly on that somehow this deal should address the notion of strategic restraint on the part of India.

Secondly, appropriate safeguards and an additional protocol will be very important to apply to the civilian part of the deal. And thirdly, I will talk about the back door. And that is that the deal should not provide incentives for wannabe nuclear weapons states to get out of the NPT and come back through the backdoor, trying to get nuclear cooperation.

But before elaborating on these three prerequisites, I will want to make a few words about the political context in which this takes place. When I, as a representative of

the Netherlands, speak of India, it is with respect, appreciation, and mindful of the strong and friendly ties between our two countries.

I address India as a member state in the U.N. framework, in which framework large states and smaller states see eye to eye, and this is the realm of international law and multilateral diplomacy that seek to shape arrangements of collective security, and I think that's what I want to focus on.

Secondly, this is not a story of moral superiority of those inside the NPT and those outside the NPT framework. These are issues of international security where national interests meet with collective security needs, and they have to be brought in balance.

Also, my own country has benefited for the past decades from the U.S. nuclear umbrella, and therefore, we have always been very mindful of the sensitive relationship between demands of national security and the nonproliferation system. So in short, nuclear weapons issues are never confined to theories, treaties in the abstract or single truth, and they are part of the tough fabric of security and realities and require pragmatic policies.

Thirdly, I want to talk about the nonproliferation consensus because that's the issue at hand. Some would say, and I think Ambassador Jaishankar also mentioned this, that the nonproliferation consensus is prone to constant change and may be hard to define. I think it's true that the nonproliferation debate is changing with time, and so we live now in an era which is profoundly different from that in the '70s or '80s, and one has only to think of the danger of nuclear terrorism, which wasn't on the mind, at least not very much, on those who were making policy a couple of decades ago.

Yet, I would venture that at heart the nonproliferation consensus is a very simple one, which was true then, as it is today, which is that more nuclear weapon states is not good for international security, and that the world needs to strive to decrease the number of nuclear weapons. And this is the basis of the NPT, I believe. And I think that, also, the states outside the NPT framework have agreed with that premise, even though they took issue with the particular arrangements of the NPT, and that was addressed.

So everything else flows from that paradigm, so when we as non-nuclear weapon states look at the nuclear deal, it's with the overriding question in mind, to what extent does this deal increase the risk of more nuclear weapon states, and to what extent does it help in bringing down the number of nuclear weapons? Now, I will cut a few corners here and go back to three points I mentioned at the beginning, which I think are three prerequisites for this deal to fit into the nonproliferation consensus.

One is strategic restraint. In fact, many non-nuclear weapon states were originally not enamored when the U.S. and India broke this deal some two years ago. Though nobody in Europe really believed that India would get into the NPT fold as a non-nuclear weapon state, most non-nuclear weapon states would have been quite happy to live with

the status quo for quite some time. But the Bush administration initiative in July of '05 forced the issue to the forefront and has us all starting to think about the new situation.

In a larger context, we see the specific value of civil nuclear energy for India's economic growth and for strengthening and widening our cooperative relations with India. There is also merit in the argument that a nuclear deal could be beneficial from the perspective of global warming, as was just mentioned. In light of the NPT, however, the central question is, how accommodating India, knowing it has nuclear weapons, could be squared with the goals of limiting the number of nuclear weapon states and bringing down the number of nuclear weapons?

A solution, in our view, should entail, therefore, at core, the notion that India commits itself to strategic nuclear restraint. We would seek the kind of commitment we demand of the nuclear weapon states inside the NPT who are bound by their Article Six obligations. The best way to ensure this would, of course, be by a unilateral or a multilateral fissile material cut-off up front, as well as adherence to the CTBT, where the U.S., by the way, as you all know, is also still holding out, and a key country if this treaty is ever to be brought about, which I think has only gained in importance with the U.S.-India nuclear deal. So these things come together in a way, so this morning I was heartened by the words that were spoken – (inaudible) – by Senator Nunn about the need for the U.S. to ratify this treaty.

Any decision by the NSG that would not somehow deal with strategic restraint would be questionable from the perspective of nonproliferation. The reason is that however we want to present the case, peaceful nuclear cooperation with India potentially eases India's limitations on its nuclear weapons infrastructure, the part where the IAEA will not get access.

Furthermore, in the larger framework, if the NSG did not address strategic restraint, it would give something like a carte blanche to a non-NPT state, whereas the NPT nuclear weapon states are obviously bound by their Article Six obligations. Let me make clear at this point, the NSG partners have not made up their minds as to the best approach to this problem. They have only started to ponder concrete steps and are basically waiting for the U.S. and India to get their act together and then India and the IAEA getting their act together before they will really start thinking about practical steps.

So what I present are potential ways forward. In practical terms, the NSG might work on a decision outlining the context of the deal and indicating the concept of strategic restraint, including, for the time being, a moratorium on testing and concentrated work on a fissile material cut-off. References to regional or global initiatives that would further reduce tensions and would therefore be conducive to strategic restraint could be included.

One has to keep in mind, also, that the NSG as such will not enter into a direct agreement with India. Rather, the NSG will agree on the conditions under which individual partners can shape their bilateral nuclear cooperation with India. But one does

not have to exclude the option that the NSG, in taking its decisions, would be instructed, in part, by official declarations from the Indian side. Such an approach would not bury India under obligations that would seek to micromanage its strategic choices – that's not the business of the NSG – but it would be conducive to India's integration in the nonproliferation mainstream, I think.

Secondly, IAEA safeguards. The safeguards will be instrumental in tying the nuclear deal into the nonproliferation consensus, and it should be the right kinds of safeguards for the civilian nuclear installations, and by that, I mean in conformity with INFCIRC 66, known to the experts, and it should be concluded in perpetuity, as is standard operating procedure under this particular procedure. We would also want to see the application of the additional protocol to these facilities.

Thirdly, and lastly, close the back door. It is important that we – when we expand the notion of nonproliferation orthodoxy and seek to deal with the realities of a nuclear weapon state outside the NPT, then it is important that we make sure that countries inside the NPT do not use it as a pretext to break away from the treaty, and as I said earlier – (inaudible) – come back through the back door. This is true for North Korea, and it must be true for any other state contemplating similar moves. Foremost, this risk should be handled in the NPT context itself, and in this respect, the 2010 review conference and the way it deals with Article 10 of the treaty will become very important, also, in the larger framework of this deal.

In conclusion, then, I have not dealt with all the intricacies of the nuclear deal with India that keep everybody very busy, and it's still unknown to me when all this will be finalized, whether it will be finalized, but the issues are important, but they don't go to the heart of preserving the nonproliferation consensus. They're mostly technical. The consensus is political in nature and requires adequate steps of a political nature, by both India and the NSG partners. I thank you for your attention, and I look forward to our discussion. (Applause.)

MS. SQUASSONI: Thank you, panelists, for such thoughtful presentations. We do have – and thank you, also, for being on time, sticking to the time limits. We have about 25 minutes for questions. We have two fixed microphones. I would ask that you identify yourselves and make your comments in the forms of questions to the panelists. I would, however, like to use the prerogative of the chair to start off with a question while you're gathering your thoughts.

It seems to me the theme of the day is strategic restraint, and we've heard it in our three panelists, although in different contexts. What I gather from some Indian officials is that there is a kind of antipathy to or rejection of adding additional conditions on what was agreed in July of 2005, although it seems to me there are elements of strategic restraint there, you know, working towards – or helping the U.S. in working towards a cutoff treaty and unilateral test restraint.

There is one area that doesn't really fall into the category of strategic restraint, but it would be a restriction on certain kinds of cooperation and that would be an NSG decision or guideline to restrict enrichment and reprocessing cooperation with India. I'd like to ask Peter if there have been any discussions within the NSG or any of those kinds of conditions are in the works, and Ambassador Jaishankar what the Indian view of such restrictions might be.

MR. POTMAN: Want me to start? Well, to my knowledge, let's say the issue of what to do with the provision of enrichment and reprocessing technology in the NSG framework is an issue under discussion within the NSG in the more general sense of what to do with these kinds of technologies in the future, and I think it's one of the key elements of the future nonproliferation debate, how we can deal with the proliferation, even for peaceful purposes, of these kinds of technologies, and it's where all kinds of working groups and initiatives are underway to see how we can sort of retain the right of countries to these technologies and at the same time find practical ways to dampen their enthusiasm to acquire these kinds of technologies.

In that sense, the same – I wouldn't say restrictions, but the go-slow approach might apply to India as it might apply to others, but I don't think that, at this stage, the discussions in the NSG have reached a point where these kinds of – this level of detail has been discussed. Remember that the Hyde Act that ties the provision of these kinds of technologies to a multilateral mechanism, a multilateral approach, to reprocessing. So at this stage, I don't think anybody knows where, exactly, this is going to come down to, other than that in general, we want to be very careful with the distribution of these kinds of technologies in the future. So we'll have to see how this will play itself out practically.

AMB. JAISHANKAR: Want me to respond to the other question as well as the strategy question?

MS. SQUASSONI: Sure.

AMB. JAISHANKAR: Okay. On the enrichment and reprocessing transfer condition, actually what we are looking at to the NSG whenever it's appropriate is really an exemption. The NSG guidelines require that the recipient country have full-scope safeguards if it is not one of the P-5, and we are really looking for a clean, straight exemption to the guidelines. I've been to the last – well, I've been to the last NSG meeting in Cape Town. We interacted with a lot of the delegations on the sidelines of that meeting. At the earlier meeting in Vienna last October, I actually was part of a team. We gave a presentation to NSG members about the advantages of the Indo-U.S. understanding for the global nonproliferation consensus.

I didn't get the – you know, quite candidly, I didn't hear these kinds of restrictions being talked about by anybody, but then bear in mind, they may not wish to share it with us, for starters. But I think our understanding with the U.S. is – one of our understandings with the U.S. is that we will work with the U.S. not to transfer enrichment

reprocessing technology to countries that don't have them. The operative part is don't have them. We've been reprocessing since 1964. We've been enriching, I assume, for about at least 20 years. So we would not fall, in our own eyes, into a category of states to whom these technologies would not be available. This is very much in sync with current international consensus in the making.

The second issue, the strategic restraint issue, the reason I think there is some antipathy to that word is that that is associated, actually, to a period where Bob, here, was active in U.S. diplomacy, trying to get us to do things which we were not entirely comfortable doing in the last administration. Well, before we reached the July 18th agreement, we had discussions with the current administration on that issue. I think we made it very clear that everything that we were willing to do has to be covered by the July 18 statement. There is no commitment outside that statement. We frankly don't envisage any commitment outside that statement.

So there is self-restraint on the part of India. A minimum deterrence is part of that self-restraint. No first use is part of that self-restraint. Our commitment to Article Six, I think, cannot be doubted. I mean, that reason – one of the reasons we didn't sign the NPT was because Article Six wasn't strong enough in our eyes. We are still officially committed toward a world free of nuclear weapons. So in terms of the point which my Dutch colleague made about the P-5 having obligations under Article Six, we have no issues with taking on those same obligations, and those obligations are, really, to strive for a world free of nuclear weapons. But I think to confuse this strategic restraint as it sort of evolved during the course of the last administration for Article Six I think would really be mixing apples with oranges.

MS. SQUASSONI: Thank you. Bill Potter?

Q: Yes, Bill Potter. I direct that Center for Nonproliferation Studies at the Monterrey Institute. I think this was an excellent discussion which, to some extent, mirrors the issues that have been vetted in public, but also ignores two sets of issues which I would ask our panelists to perhaps address.

One has to do with the question of full scope safeguards, but not in the context of the nuclear suppliers group, but rather, with respect to the consensus in 1995 regarding one of the decisions, namely the principles and objectives that was agreed upon in '95 where there's a very explicit reference to the obligation of states not to engage in nuclear trade absent full scope safeguards.

The second – that was, I think, interpreted by many as a political commitment, but there is also a legal obligation which appears not to have been addressed by most states' Parties, and that is with respect to nuclear weapons-free zones, particularly the treaties of Rarotonga and Pelindaba, where there is, in both treaties, an explicit provision again precluding nuclear trade with countries that do not have full scope safeguards in place.

And so my first question is, if you could address, perhaps, the impact of the consensus that you're pointing to after U.S.-Indian civil nuclear cooperation, both on the treaty and with respect – the nuclear weapons-free zone treaty at NPT, where there was a consensus.

My second question has to do with the non-aligned movement, which I think many parties would identify as a strong proponent of nuclear disarmament. It's my understanding that, in fact, India has sought, somewhat successfully, to try to tone down NAM pronouncements with respect to disarmament, and in fact, that there was a backlash leading up to the 2007 NPT PrepCom with respect to this issue and also as it applied to the question of full scope safeguards. And so when – (inaudible) – the 2007 NPT PrepCom, NAM actually taking a very forceful position on full scope safeguards. So I wonder the extent to which conclusion and implementation of a U.S.-Indian civil and nuclear cooperation agreement might impact upon NAM as a force for disarmament. Thank you.

MS. SQUASSONI: Would you like to start with the NAM?

AMB. JAISHANKAR: Well, you know, I think the NAM positions on disarmament are broadly – the NAM, like any political body, functions on the basis of broad consensus. Not every member underwrites every word of every declaration that it issues. But the bottom line is that, in terms of the disarmament directions of NAM, you know, we really don't have an issue with it, I mean, as to where we are eventually going to be going, and where we are eventually going to be going is really implementation of the objectives of Article Six.

But in terms of – there are sometimes issues which pertain to the NPT -- there is a spectrum of opinion within the NAM. And, you know, I would state, in all candor, that very often, there are views in NAM in fairly large sections of NAM which may not be in consonance with our views. But in NAM, we learn to live with it. So there is a plurality of views on that particular aspect.

With regard to the full scope safeguards, as far as we are concerned, we have an understanding with an administration, an administration which has also today consulted the Congress, got Congressional approval, which has consulted many of its allies, which has made presentations on this understanding to the nuclear suppliers group, and it's fairly straightforward for us that if, at present, the full scope safeguards requirement in the guidelines is an obstacle to international cooperation, some way will have to be found to either exempt us from the guidelines or to change the guidelines.

MR. EINHORN: Just to address Bill's point on the full scope safeguards, the way U.S. government and Indian government would like to deal with this is as an India-specific exception to the guidelines, to the full scope safeguards guideline, but to leave the principle intact. I think that's kind of awkward to make a one-country exception and leave in absolute limbo two other countries that never joined the NPT.

I think a better way of doing that would be to say that non-parties to the NPT that never signed the NPT, because you've got to leave North Korea aside, that they would be eligible for nuclear cooperation with NSG countries, provided they met certain objective criteria, and you could list what criteria you think are important, to ensure that they're part of the nonproliferation mainstream.

I think the criteria that I would support would be different than the ones that Ambassador Jaishankar would support, but I think that's the more sensible way, not making a country-specific exception but having rules that would apply across the board to all countries that are not NPT parties and never signed the NPT.

MR. POTMAN: From my perspective, I mean, I come from a country that has been working on the application of full scope safeguards as conditions of supply in various contexts, including within the NSG. That's what we've been doing over the past couple of years. As far as the 1995 review and extension conference is concerned, the outcome document of that, the principles and objectives, I think, in general we would give a somewhat higher status than perhaps the United States government gives to that.

And it means that the consequences of that will have to be taken into account as we proceed within the NSG framework with the deal if it comes our way. How, exactly, this is going to be squared, I'm not in a position to tell you because I don't know, but the full scope safeguards, as a condition of supply, is still something that is very dear to our hearts, both in the NSG context and obviously the NPT.

Q: I'm Scott Sagan, the co-director of Stanford University's Center for International Security and Cooperation, and my question is for Ambassador Jaishankar as well. In your PowerPoint, and then again, in answer to the question about strategic restraint, you repeated the statements that we should not be concerned about India's restraint because you are committed to a no first-use doctrine, that you have minimum deterrence as your strategic doctrine, and that you – that no one can doubt India's commitment to an Article Six nuclear free world.

I'm not sure I believe any of those three statements. First, in January 2003, your government stated it had a no first-use doctrine but said it holds open the right to use nuclear weapons first if another states use chemical or biological weapons against it, and for those of us who oppose that policy in the United States, it struck us that that was a redefinition of no first-use on the part of India and that you no longer have a no first-use policy.

Second, minimum deterrence, usually in the United States' context, refers to having a small number of nuclear weapons targeted against an adversary's urban, industrial areas, and yet your development of a number of different kinds of nuclear weapons and the added statement credible nuclear, minimum nuclear deterrence, holds open the options of India building up its nuclear weapons so that it can equal both China and Pakistan and therefore growing quite larger than most definitions of minimum deterrence.

And so my question is, can you give us a sense of how much larger your government feels a nuclear arsenal in India might have to become to meet what you consider your national security needs in that new definition that your government published in 2003, and at what point – at that point, could you then take a more serious effort to try to have a Article Six type consensus to move in practical steps to reduce your arsenal? How much larger do you have to get before you can consider yourself practicing nuclear disarmament?

AMB. JAISHANKAR: Well, look, if you don't believe me, there's nothing much I can do about it, okay?

Q: No, you can convince me.

AMB. JAISHANKAR: Well, the straight answer to your question on quantification of what is minimum deterrence, it will not be quantified, so I mean, it defies common sense that you would quantify a minimum force when you don't know the size of the force against which you're quantifying. It's not that the forces which other states possess are static and quantifiable for us. So I don't think the question is put in a very – in a manner in which it gets a sort of effective answer on our part.

But the larger point I would make is, you know, this whole nuclear understanding with the United States and with the international community is not an arms control agreement. I mean, we did not enter into this with the idea that, you know, this agreement is a step towards somehow lowering India's strategic capability, reducing India's strategic capabilities as part of this. If we are looking at, finally, the countries reducing their arsenals, the countries with arsenals will sit and have to discuss it.

But this is not a tradeoff between reduction of India's strategic programs in exchange for something else. It was never envisaged as such. I mean, that is why I made the reference earlier, even, to the issue of strategic restraint.

MS. SQUASSONI: Let's take two questions, and then a response.

Q: This is – (inaudible) – I am a graduate student at the University – (inaudible). I have two questions for Ambassador Jaishankar. First one is, like you pointed out in your presentation regarding India's export record and safety records, there's one point which actually keeps popping up in this conference, and I would say this is that this particular argument would stand as a model for countries like Iran and North Korea with a bad record, and countries with positive records like Egypt, Saudi Arabia, and probably Argentina. So how do you – (inaudible) – with this logic, in the position of a representative of the government of India?

And my second question is that you pointed out with a minimum credible – (inaudible) – logic. Again, I would draw your attention to one point that came up in this conference is that during the Cold War, the one lady said that if nuclear war didn't

happen, it was not technological or strategy reasons, but it was just pure luck. Given that argument, would it be okay to argue that the security arrangement that India took in terms of minimum credible deterrent is more of a flawed invested (?) security policy rather than really something that India needs at this moment?

MS. SQUASSONI: We'll have to take two questions.

Q: I'm sorry, I'm Ed Lyman, senior scientist with the Union of Concerned Scientists. The one thing I did agree with Ambassador Jaishankar on is that the U.S. policy on reprocessing is inconsistent. In fact, it looks like the worst kind of favoritism and cronyism without any adherence to basic principles. But in that context, I'd like to ask Bob Einhorn if he has insight why the Bush administration was pushing back on that one particular aspect when it seems to have given away so much else, and also, when its position on reprocessing has already wavered with regard to a number of other countries. Thank you.

AMB. JAISHANKAR: A quick answer to the gentleman on my left. I don't think Iran and DPRK are really appropriate comparisons for India. I think we didn't sign the NPT; it's as simple as that. And as regards, you know, if I understood your question right, whether it was sensible of us to go in for a strategic program, I think that's a debate now which is nine years old. I mean, it's not something you really can sort of walk back in time on that. I think the decision on that is made. And I'm very glad that the other question was directed at Bob and not at me. (Laughter.)

MR. EINHORN: Was the question why does the Bush administration look as if it's ready to give programmatic consent to Indian reprocessing of U.S. fuel? Is that what you were talking about? Where is he, where –

(Off mike.)

MR. EINHORN: Well, I think it's been pushing back because in most U.S. agreements for cooperation, most 123 agreements, the U.S. insists on having case-by-case consent over any reprocessing. There are a few exceptions to that – Japan, the EU agreement that affects two nuclear weapon state allies, U.K. and France. So there are some exceptions to that, and the question is whether the U.S. should treat India with respect to reprocessing consent the way it treats some other countries, like Japan.

Incidentally, there is a U.S.-Russia 123 agreement under negotiation that doesn't provide programmatic consent to reprocessing. There's a U.S.-China agreement for cooperation that does not provide programmatic consent, so what India is asking for is to be treated better than both Russia and China.

MS. SQUASSONI: We have four more questions and about two minutes. Can you be really, really brief, and we'll take two at a time?

Q: My name is – (inaudible) – I’m a fellow at Harvard University. My question is to Mr. Potman and Mr. Einhorn. I think as you approach the NPT in 2010, you’re going to be asked some significant questions, whether at the conference or before, by NPT states parties regarding the Indo-U.S. agreement. They will basically focus on the fact that what we have before us is envisaged is a mutated form of a nonproliferation regime, one which allows a back door for India but at the same time seeks to curtail Article 10 withdrawal for NPT member states so that there is no back door yet at the same time as well tries to curtail the right to peaceful uses under Article Four – (inaudible) – on countries, all because of a bilateral agreement between the U.S. and India, and as such, some countries may pose the question that it’s – (inaudible) – that the nuclear supplies group is an entity, and this agreement continue to remain in the gray area outside the NPT because, ultimately, to accept them is destructive to the regime as it currently exists. How would you respond? Thank you.

MS. SQUASSONI: Okay, thank you, Munish. Really fast.

Q: Really quickly, thank you. A comment and question, both about gaps in perception between DC and Delhi, particularly with one country’s idea of what another country wants in their respective ring roads and beltways, I guess. I ask because in the months after March 2006, both sides were saying, we gave away too much, and many believe that that’s because they were ratcheting the rhetoric to strengthen their bargaining position. I don’t agree. I think it betrays a lack of congruence and communication between the two countries, so my question to everyone on the panel is what, if any, gaps in perception do you see between DC and Delhi, and second, how do you close those? Thanks.

AMB. JAISHANKAR: Well, we’re closing it. Not too many gaps. We’re getting there. As soon as the other side agrees with me, the gap will be closed. (Laughter.)

No, only kidding. No, I think we’re getting there. Basically, I don’t think there are really that many problems in the gaps. I think the issue is how do you take broad political principles and make them into legally binding language, and the translation of the March and July understandings into a 123 agreement. It’s really easier said than done because you’re working on a sort of legal document with a kind of worst-case contingency approach. So you have to find very exacting, very rigorous language to reflect that, and that’s really part of where the challenge lies.

MS. SQUASSONI: Peter, briefly on NPT 2010.

MR. POTMAN: Right, in answer to – (inaudible) – point, on the assumption that in 2010, the NSG member states of the NPT will be at a stage where they will have to do this kind of explanation, and I don’t know whether that’s going to be the case. I think a couple of points are important. One, this deal, however it plays out, does not bring recognition of India as a nuclear weapon state in the NPT context. That’s one. Two, the effort that I think is on the way to look more critically at what we do with the dispersion

(?) of enrichment and reprocessing facilities is not about denying others rights but to – with the retention of the right that countries have, look for ways in which we can better deal with the profusion of technology.

So to frame the debate of the NSG member states on the one hand giving goodies to non-member states, and on the other hand, hammering over their heads and taking away rights of non-nuclear weapon states in the NPT I think is a wrong dichotomy. I'm not saying there are no tensions in this debate, and again, it's theoretical at the moment, but it's not a dichotomy the way that I think you're trying to portray it. So in that sense, I would hope that 2010 could concentrate on those things that are of practical importance to the future of the NPT.

MS. SQUASSONI: I think coffee is outside. William Walker, and then –

Q: William Walker, University of St. Andrew's. Two very quick questions. To Ambassador Jaishankar, will India be seeking a voluntary offer agreement with the IAEA, and to Mr. Potman, would the IAEA board of governors consent to anything resembling a voluntary offer agreement?

MS. SQUASSONI: And last question.

Q: Thank you. I am – (inaudible) – and I work in Strategic Plans Division in Pakistan. I could not resist this thing. Once Ambassador Jaishankar said India – (inaudible) – India has an exemplary record of export control. I think export control legislation was passed by India – (inaudible). Prior to that, there was no legislation in India. Secondly, if you recall, India had a nuclear corporation agreement with Saddam regime, not Iraq, Saddam regime, in '70s. Thirdly, Indian scientists were caught – were sanctioned by U.S. working in Iran. And more recently, Indian embassy official was caught smuggling of sensitive technology. It was just two months back.

Now I'll come to my question. (Laughter.) I said I could not resist because you said so. You said India would be better off if integrated into the nonproliferation regime. What specifics do you have? And my second quick question is, as Scott Sagan referred about – time is short so I can – minimum deterrence requirement you said cannot be quantified. I think if you identify your threat, the minimum deterrence level can be quantified. So what threat India has? Is it China or Pakistan? Thank you.

AMB. JAISHANKAR: The answer to your question is that the separation plan, which we released last year, commits us to safeguards in perpetuity on the civilian facilities in exchange for perpetual supplies. So I think that should really answer what kind of template we are looking at. As for the question on the right hand side, as a factual correction, my recollection is our first export control legislation was actually 1987. I think what we did in 2005 was to pass a subsequent legislation.

The point I was making in terms of integration into the sort of larger nonproliferation template is that we believe that, you know, the enthusiastic participation

of India in a nonproliferation consensus and forging a new consensus, if necessary, would really strengthen the consensus as it stands today.

Now, I did mention that in very practical ways – this is not really a declaratory business. It is a very practical business where state structures, governmental organizations actually fashion policies and implement policies and work with each other in pursuance of shared goals. There is a degree of confidence in this, mutual confidence in this. There is a degree of comfortable working level arrangements on this. So that's really the point which I was making, that we believe that our participation in this, and very enthusiastic participation, this would bring value to strengthening the consensus.

MR. POTMAN: In response to William's question, I'm afraid we're going out with an unsatisfactory diplomatic answer, which is that we're not on the board right now, and I cannot prejudge what the board will accept or not accept at some stage. I told you our position is that it should not be voluntary safeguards. It should be conformity with standard operating procedure, including an additional protocol. I'm not aware of any country having the position that it should be voluntary safeguards, within the NSG, in the board. Where we're going to end up, I cannot predict.

AMB. JAISHANKAR: Let me just clarify that. It's not our position that it's a voluntary offer either, so I'm really a bit confused as to what the debate is about.

MS. SQUASSONI: I think there is a long discussion we could have about very technical safeguards issue, but we will spare you all from that. We can talk later. But join me in thanking our panelists for excellent presentations. (Applause.)

(END)