

Offender Services Agency, CSOSA, a Federal entity providing offender and defendant oversight in the District. I commend my colleagues for including a provision in this bill to ensure the CSOSA will remain on reservation 13 in a facility which the Federal government has provided significant resources to renovate. They are doing a tremendous job to ensure that offenders returning to the city are prepared for the challenges that face them and should continue that good work.

In addition, I emphasize my strong support for youth recreation and education opportunities in this bill. Properties all along the Anacostia River and elsewhere will now be under the District's control to develop and I strongly encourage them to commit to reserving a portion of each property for youth recreation. We all know the health benefits to children being outdoors, whether in organized sports or the chance to learn about the environment. There are many tremendous youth sports organizations in DC that boost kids' self-esteem and oftentimes provide educational support or mentoring at no cost to low income children. Particularly in an urban area where space is limited it is critical that the District commit to providing opportunities for youth to be outdoors.

I recognize the important need for outreach to the poorest and most vulnerable children in DC. I strongly urge the Anacostia Waterfront Corporation to form a partnership with a DC-based organization whose mission is to provide environmental education to children in natural and historic settings, and particularly to underserved populations. In my work with the District I have always encouraged partnerships with community organizations who know the need and how best to meet it and this is a perfect opportunity to create new vibrant partnerships to benefit the community.

I thank Senators COLLINS, VOINOVICH, LIEBERMAN, and AKAKA for their hard work on this legislation over the past year. The base of the bill was proposed by the administration in 2005 and we have worked collaboratively with the District government and the Federal agencies holding property in the city to develop a sensible approach. I support the goals of this bill to rationalize property in the District and I encourage city leaders to ensure youth have a place to play in their plans for the property. I urge passage of H.R. 3699 and thank the authorizing committee for their work.

Mr. LUGAR. Madam President, I further ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and that statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3699) was ordered to a third reading, was read the third time, and passed.

UNITED STATES-INDIA PEACEFUL ATOMIC ENERGY COOPERATION ACT

Mr. LUGAR. Madam President, I ask that the bill S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act, be called up and be the pending business.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 3709, which the clerk will report.

The clerk will report the bill by title.

The legislation clerk read as follows:

A bill (S. 3709) to exempt from certain requirements of the Atomic Energy Act of 1954 United States exports of nuclear materials, equipment, and technology to India, and to implement the United States Additional Protocol.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Madam President, today the Senate begins consideration of legislation on the U.S.-India Civilian Nuclear Agreement. This agreement is the most important strategic diplomatic initiative undertaken by President Bush. By concluding this pact and the far-reaching set of cooperative agreements that accompany it, the President has embraced a long-term outlook that seeks to enhance the core strength of our foreign policy in a way that will give us new diplomatic options and improve global stability.

The Committee on Foreign Relations undertook an extensive review of this agreement. We held four public hearings with testimony from 17 witnesses, including Secretary of State Condoleezza Rice. We received a classified briefing from Undersecretaries of State Nick Burns and Bob Joseph. Numerous briefings were held for staff with experts from the Congressional Research Service, the State Department, and the National Security Council. I submitted 174 written questions for the record to the Department of State on details of the agreement and posted the answers on the committee web site.

The agreement allows India to receive nuclear fuel, technology, and reactors from the United States—benefits that were previously denied to India because of its status outside the Nuclear Non-proliferation Treaty—NPT. This pact is a lasting incentive for India to abstain from further nuclear weapons tests and to cooperate closely with the United States in stopping proliferation.

The bill before us is an important step toward implementing the nuclear agreement with India, but we should understand that it is not the final step in the process. This legislation sets the rules for subsequent congressional consideration of a so-called 123 Agreement between the U.S. and India. A 123 Agreement is the term for a peaceful nuclear cooperation pact with a foreign country under the conditions outlined in section 123 of the Atomic Energy Act.

Our legislation does not restrict nor does it predetermine congressional ac-

tion on the forthcoming 123 Agreement. Unlike the administration's original legislative proposal, this bill preserves congressional prerogatives with regard to consideration of a future 123 Agreement. Under the administration's original proposal, the 123 Agreement would have entered into force 90 days after submission unless both houses of congress voted against it, and with majorities that could overcome a likely Presidential veto. I am pleased the administration changed course on this matter and agreed to submit the 123 Agreement with India to Congress under normal procedures. This means that both the House and the Senate must cast a positive vote of support before the 123 Agreement can enter into force.

In our view, this better protects Congress's role in the process and ensures congressional views will be taken into consideration.

I thank Senator BIDEN for his close cooperation on developing this important bill. It reflects our shared views and concerns. He and his staff were valuable partners in the drafting of this legislation, and the final product is much improved because of their efforts. Together, we have constructed a bill that allows the U.S. to seize an important strategic opportunity, while ensuring a strong congressional oversight role, reinforcing U.S. non-proliferation efforts, and maintaining our responsibilities under the NPT. I also want to thank all members of the Foreign Relations Committee for their support, and the work of their staffs, in crafting a bill that received the overwhelming support of the committee last June.

For the benefit of Senators, I offer the following section by section analysis.

Section 101 identifies the bill as the U.S.-India Peaceful Atomic Energy and U.S. Additional Protocol Implementation Act. Sections 102 and 103 of the Lugar-Biden bill include sense of the Congress provisions on U.S.-India relations and policy declarations. These provisions give voice to a set of important policy issues involving bilateral relations, democratic values, nuclear non-proliferation regimes, fissile material production in South Asia, and support for IAEA safeguards and the Nuclear Suppliers Group. All of these concerns are reinforced by the bill's comprehensive reporting requirements.

Section 104 provides waiver authority from provisions in the Atomic Energy Act and removes the prohibition on cooperating with India due to its 1998 weapons tests and its existing weapons program. At the same time, section 129 of the Atomic Energy Act, which is preserved under the Lugar-Biden bill, terminates nuclear cooperation if India conducts a nuclear test, proliferates nuclear weapons or materials, or breaks its agreements with the IAEA or the United States.

Section 105 of our proposal adopts all of the administration's requirements

to ensure that India is meeting its non-proliferation commitments. In addition, we require that decisions in the Nuclear Suppliers Group enabling nuclear trade with India are made by consensus and consistent with its rules. Our aim is to ensure that this multilateral organization will continue to play a vital role in global nonproliferation efforts.

Section 106 prohibits exports of equipment, materials or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water. The provision allows narrow exceptions for the export of these items from the United States to India if they are for proliferation-resistant activities that involve the United States or have the sponsorship of a recognized international body such as the IAEA. This provision is consistent with the administration's policy regarding such transfers. It would allow cooperation in sensitive nuclear areas only if such cooperation could be implemented with no risk of proliferation.

Section 107 requires the creation of a system to ensure that no items exported to India are diverted to any uses that are not peaceful. This section seeks to ensure U.S. compliance with our NPT obligations.

Section 108 requires annual Presidential certifications that India is meeting its commitments under the July 2005 Joint Statement, its Separation Plan, New Delhi's Safeguards Agreement and additional protocol with the IAEA, the 123 Agreement, and applicable U.S. laws regarding U.S. exports to India. The President must also certify on an annual basis that U.S. trade with India in these areas remains in the national security interests of the United States.

Section 109 requires that no action be undertaken under this act that could violate any U.S. obligation under the NPT. Section 110 explicitly stipulates that if India conducts a nuclear test, U.S.-India civilian nuclear cooperation is terminated. Finally, sections 111 and 112 clarify India's Missile Technology Control Regime status under U.S. law and various terms used in the bill.

The U.S.-Indian agreement resulted from a delicately balanced negotiation. Neither side got everything it wanted. Nevertheless, the Bush administration and the Indian government came to the conclusion that the agreement was in the national security interest of both countries. I urge Senators to vote in favor of this legislation without conditions that would kill the agreement.

I would also note that Senator BIDEN and I included an important piece of nonproliferation legislation in the bill as title II. In 2004, the Senate ratified the IAEA Additional Protocol, but Congress did not pass implementing legislation that is required for the treaty to go into effect. President Bush has called on the Senate to act on this important matter, and the committee voted unanimously in favor of this bill in March.

The Committee approved this legislation with a bipartisan vote of 16 to 2. Furthermore 15 members of the committee asked to be named as original cosponsors. Since that time, additional Senators have requested to be added as cosponsors.

Due to the fact that the legislation was an original bill, the Parliamentarian ruled that cosponsors were not permitted. This is unfortunate because the amount of support our legislation has received is impressive. I appreciate the strong support of Senators BIDEN, HAGEL, CHAFEE, ALLEN, COLEMAN, VOINOVICH, ALEXANDER, SUNUNU, MURKOWSKI, MARTINEZ, DODD, KERRY, NELSON, OBAMA, CORNYN, BAYH, HUTCHISON, DEWINE, and LOTT.

During our markup, the committee rejected an amendment offered by Senator FEINGOLD. Under the amendment, the President would have had to determine with absolute certainty that no U.S. nuclear fuel exports to India could increase its production of fissile materials for weapons. New Delhi would rightly see this as moving the goalposts—an unacceptable unilateral alteration of the pact. If the Feingold amendment or others like it are included in the final legislation, they would effectively kill the U.S.-India Agreement.

I would have preferred that the U.S.-India Agreement had included a commitment by New Delhi to stop making nuclear bomb materials, but negotiations did not yield that result. Instead, the Bush administration won an important commitment to negotiate a Fissile Material Cutoff Treaty. Such a multilateral approach is the best way to reduce nuclear tensions and threats associated with an arms race in South Asia.

The Lugar-Biden bill declares it the policy of the United States to achieve as quickly as possible a cessation of the production of fissile materials for nuclear weapons by India and Pakistan. Our bill also includes an annual reporting requirement detailing:

United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, capping, and reducing their fissile material stockpiles, pending creation of a world-wide fissile material cut-off regime, including the institution of a Fissile Material Cut-off Treaty.

I will oppose amendments that delay or impose additional conditions on the agreement before it can enter into force. The Senate will not advance U.S. national security in this case by making the perfect the enemy of the good. We should not hold up the significant nonproliferation gains afforded by this initiative in order to seek a fissile material cap that India has indicated it will not consider absent similar commitments by Pakistan and China.

The United States and India have engaged in initial discussions on a multilateral Fissile Material Cutoff Treaty, FMCT, to be negotiated in the conference on disarmament. We should press for rapid progress in that context.

The Indian government has expressed concern about section 106 of our bill. This section prohibits the export of any equipment, materials or technology related to the enrichment of uranium, the reprocessing of spent fuel, or the production of heavy water. These technologies are not purely civilian in nature. They are considered critical elements to a modern nuclear weapons program.

This provision in our bill is entirely consistent with President Bush's policy announcement on this matter at the National Defense University on February 11, 2004. In his speech, the President said:

The 40 nations of the Nuclear Suppliers Group should refuse to sell enrichment and reprocessing equipment and technologies to any state that does not already possess full-scale, functioning enrichment and reprocessing plants. This step will prevent new states from developing the means to produce fissile material for nuclear bombs. Proliferators must not be allowed to cynically manipulate the NPT to acquire the material and infrastructure necessary for manufacturing illegal weapons.

President Bush also said that "enrichment and reprocessing are not necessary for nations seeking to harness nuclear energy for peaceful purposes."

In response to questions for the record that I submitted, Under Secretaries of State Bob Joseph and Nick Burns amplified this administration policy as it applies to the nuclear agreement with India. They said:

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.

Under Secretaries Burns and Joseph also answered that:

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.

This answer is especially significant, since the phrase "full civil nuclear energy cooperation" is the phrase taken directly from the July 2005 joint statement.

In response to a question for the record that I submitted to Secretary Rice, she responded:

The U.S. does not foresee transferring heavy water production equipment or technology to India, and the draft bilateral peaceful nuclear cooperation agreement accordingly makes no provisions for such transfers.

Our committee bill, S. 3709, does not break any new ground in this area. This is not a new subject. The answers to these questions have been on the committee's Web site for months.

Nothing in this bill deviates from the President's policy, and we even go one step further by allowing the flexibility to export those items from the United States for proliferation-resistant activities with the U.S. or under international cooperation. I support section 106, and I think it is important that we take the strong and definitive statements made by President Bush, Secretary Rice, Under Secretary of State Nick Burns, and Under Secretary of State Robert Joseph and put them into law.

The Indian government has also expressed concern about section 107, which requires an end-use monitoring program to be carried out with respect to U.S. exports and re-exports of nuclear materials, equipment, and technology sold or leased to India. Some have argued that this provision is not needed because IAEA safeguards would verify the use of any U.S. exports to India. IAEA safeguards only apply, however, to nuclear materials, not to nuclear technology. Sensitive technology of the kind the United States might export to India that can be used in India's civilian nuclear program could also advance India's nuclear weapons program.

This type of end-use system is not without precedent, as Congress required similar recordkeeping for nuclear cooperation with China.

An end-use monitoring program can provide increased confidence in India's separation of its civilian and military nuclear programs. It also would further ensure United States compliance with article I of the Nuclear Non-Proliferation Treaty.

The provision is not intended to cast doubt on the sincerity of India's July 18 Joint Statement commitments or its March and May 2006 separation documents. Rather, the committee believes that by building and establishing a special program with India, the resulting coordination between India and U.S. regulatory agencies can provide a basis for even greater cooperation and commerce between the two nations.

Section 107 would confirm that only authorized recipients are receiving nuclear technology; that the nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities; that the nuclear technology identified for transfer will not be retransferred without the prior consent of the United States; and that facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

This section also requires that, in the absence of IAEA safeguards, the U.S. and India must arrange a bilateral system to ensure that safeguards in India remain on U.S. exports and re-exports in perpetuity.

Section 107 requirements could be met by applying to India those measures already governing atomic energy cooperation under the 123 Agreement

with China. Under Secretary Joseph testified before the committee that, while the 123 Agreement with India will not provide for full-scope safeguards, it "will allow for appropriate controls to help ensure that material or goods provided for civilian purposes remain within the civilian sector." So nothing in section 107 would be inconsistent with what may be concluded in the 123 Agreement with India itself.

Title II of the bill includes the committee's IAEA Additional Protocol Implementing Legislation. This title permits the Additional Protocol the U.S. has concluded with the IAEA to go into effect.

In President Bush's 2004 speech at the National Defense University, he called on the Senate to ratify the U.S. Additional Protocol with the IAEA. He said:

We must ensure that the IAEA has all the tools it needs to fulfill its essential mandate. America and other nations support what is called the Additional Protocol, which requires states to declare a broad range of nuclear activities and facilities, and allow the IAEA to inspect those facilities . . . Nations that are serious about fighting proliferation will approve and implement the Additional Protocol. I've submitted the Additional Protocol to the Senate. I urge the Senate to consent immediately to its ratification.

The Committee on Foreign Relations voted unanimously to approve a resolution of ratification on the U.S. Additional Protocol on March 4, 2004, and the full Senate approved it on March 31 by unanimous consent in 2004.

Unfortunately the Additional Protocol is not self-executing. Congress must adopt implementing legislation for the United States to submit its instruments of ratification. In other words, implementing legislation must be passed before the Additional Protocol can go into effect. The Committee on Foreign Relations unanimously approved the implementing legislation on March 4, 2006, but efforts to pass the legislation in the full Senate have been unsuccessful due to holds placed by several Senators.

At a time when the administration and the Congress are demanding that India conclude such an Additional Protocol as part of its overall nuclear arrangements, Congress must muster the political will to act on the implementing legislation. Our credibility as the leader of global nonproliferation efforts is at stake. Along with many other nations, we are asking the IAEA to perform critical functions aimed at preventing nuclear proliferation. An effective IAEA is very much in the national security interest of the United States.

Some Senators expressed concern that the Additional Protocol and the implementing legislation will make it possible, even likely, that international inspectors will learn secrets about our nuclear weapons program. Let me state clearly, nothing could be further from the truth. The Additional Protocol does not contain any new arms control or disarmament obligations for the United States. Although

there are increased rights granted to the IAEA for the conduct of inspections in the United States, although there are increased rights granted to the IAEA for the conduct of inspections in the United States, the administration has assured the Foreign Relations Committee that the likelihood of an inspection occurring in our country is very low. Moreover, even if an inspection under the Additional Protocol is requested, the United States has the full right, through the National Security Exclusion, to prevent the inspection if we determine that it could be potentially harmful to U.S. national security interests.

On July 26, 2006, the National Security Adviser, Steve Hadley, expressed the administration's support for the language in title II. He wrote:

The Administration urges both Houses of Congress to act to complete expeditious action on implementing legislation to enable the United States to meet its obligations under the Additional Protocol.

More recently, President Bush's Assistant Secretary of State for International Security and Nonproliferation, John Rood, testified at his confirmation hearing that the administration strongly supports the Additional Protocol and that it is important that the United States pass implementing legislation.

I am pleased to report that a compromise was reached between the administration, the Committee on Foreign Relations, and those Senators who expressed concerns about the IAEA Additional Protocol implementing legislation. This is an important step for U.S. nonproliferation policy, and I thank all of the parties involved in the discussions for their support of those efforts.

In conclusion, Madam President, I urge my colleagues to approve the U.S.-India agreement. This legislation will allow the United States to engage in peaceful nuclear cooperation while safeguarding U.S. national security and nonproliferation efforts, as well as congressional prerogatives. It is an opportunity to build a vital strategic partnership with a nation that shares our democratic values and will exert increasing influence on the world stage. We should move forward now.

I thank the Chair, yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5168

(Purpose: In the nature of a substitute)

Mr. LUGAR. Madam President, I send a managers' amendment to the desk that has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 5168.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. LUGAR. Madam President, I urge the amendment's adoption.

The PRESIDING OFFICER. The amendment is agreed to as original text.

The amendment (No. 5168) was agreed to.

AMENDMENT NO. 5169

Mr. LUGAR. Madam President, I send an amendment to the desk that has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. OBAMA, proposes an amendment numbered 5169.

The amendment is as follows:

(Purpose: To clarify United States policy in order to deter nuclear testing by foreign governments)

At the appropriate place in title I, insert the following new section:

SEC. ____ UNITED STATES POLICY REGARDING THE PROVISION OF NUCLEAR POWER REACTOR FUEL RESERVE TO INDIA.

It is the policy of the United States that any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

Mr. LUGAR. I urge the amendment's adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5169) was agreed to.

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, today the Senate is engaged in a truly historic process. When we pass this bill—and I expect we will do that—America will take a giant step closer to approving a major shift in United States-India relations. If we are right, this shift will increase the prospects for stability and progress in South Asia and, I would argue, the world at large. The Committee on Foreign Relations has worked to move this project forward, while safeguarding the role of Congress and minimizing any harm to nuclear nonproliferation policies and institutions. There is no one who has been stronger in dealing with the issue of nonproliferation than my colleague,

the chairman of the Foreign Relations Committee. I have supported him in those efforts for years.

I urge my colleagues to take a real close look at the argument that is being made by some that this is going to promote the proliferation of nuclear weapons. The fact is, I believe it will not.

I am going to urge my colleagues at the appropriate time to support this bill. It has been a cliché to speak of the United States-India relationship as a bond between the world's two oldest democracies and the world's two largest democracies, but this cliché is also a fact. Shared political values are the foundation of our relationship and, I would argue, the *raison d'être* for taking a chance for those who are doubtful on this treaty. Both the United States and India believe in the dignity of man and the consent of the governed. Both countries are multiethnic and multi-religious. Both countries seek economic and social betterment for their people and believe that it is best achieved through peaceful change, both domestically and externally. If that were the whole story, however, it would not have taken us six decades to get to the moment we are now.

For much of the last 60 years, the political structures were trumped by geopolitical ones. Democracy in democratic India was often closer to the Soviet Union, while the United States often favored India's rival Pakistan, particularly during the most undemocratic phase of Pakistan's national history. That alignment was an anomaly of the cold war. Today the United States and Pakistan are important allies in the war on terror and, at the same time, today the national interests of the United States and India are in concert, perhaps more than any time in the past. India and the United States are both status quo powers, at least regarding territory. Neither of us has any claim on any neighboring piece of real estate. We face similar challenges from extremists and terrorists; in some cases, from the same terrorist groups and same individuals. We share a common desire for stability and the spread of liberal democracy throughout Asia and, indeed, throughout the world. And we share a concern about the world's need for energy, especially energy that does not increase the speed and risk of global warming.

The need for new energy supplies is an important underpinning of the issues before us today, legislation opening the way for civil nuclear cooperation between the United States and India. In time, I hope India's burgeoning energy needs will prove a spur to a wide variety of alternatives to fossil fuels, including solar, wind, and biofuel. On many of these, India has already begun to move, but at present, nuclear power is a vital part of India's energy equation. It is likely to grow in significance in the years to come. Experts note correctly that nuclear power will still provide only a small portion of India's energy consumption even when this passes. But at the margin,

the contribution of nuclear power will be greater, and India's leaders across the political spectrum see nuclear power as an important and necessary contributor to their country's economic progress.

The Agreement on Nuclear Cooperation negotiated by President Bush and Prime Minister Singh in July of 2005 cannot be implemented unless Congress approves changes in U.S. law. So we in the Senate must now address both the opportunities and the nonproliferation issues raised by that agreement. The administration proposed that we treat the United States-India Nuclear Cooperation Agreement as if it met all the requirements of section 123 of the Atomic Energy Act. In fact, it does not. There is no way, of course, that India, with a nuclear weapons program that is outside the Nuclear Non-Proliferation Treaty, could meet these requirements. I compliment my chairman for making it clear to the administration that was a nonstarter.

Were Congress to accept the administration's proposal, it would lose any real ability to influence a nuclear agreement with India. The agreement would be sent to Congress, but we would have to enact a motion to disapprove over a likely Presidential veto within 90 days in order to stop any agreement from entering into effect. That would be a gigantic usurpation of our responsibility. The Foreign Relations Committee, under the leadership of the chairman, rejected this approach, as did the House of Representatives.

The bill before us today would require, instead, an affirmative vote of Congress before a United States-India Nuclear Cooperation Agreement can enter into effect. Section 3709 provides expedited procedures for the resolution to approve such a United States-India agreement. That resolution would not contain any conditions, and it could not be amended. But if Congress found the Nuclear Cooperation Agreement wanting in some respect, it could either reject the expedited resolution or approval or pass a different resolution that did contain conditions. That is what Congress did with the United States-China Nuclear Cooperation Agreement in 1985. So this bill protects congressional powers not for the sake of protecting congressional powers, as if we were interested in turf; it protects the balance of power, the separation of power, which is essential in the formulation of a policy, including foreign policy. At the same time, it offers procedures that will expedite approval of a good agreement.

Section 3907 also allows the President to waive section 128 of the Atomic Energy Act, which provides for annual submission of one export license to Congress. That provision has never been used and would be of little benefit to Congress, as a sale could be blocked only if a resolution of disapproval were enacted, again, over the likelihood of a Presidential veto.

The administration argued that section 128, while giving Congress little real power, would harm U.S. industry

by creating an annual event that would frighten both the customer and the investor from proceeding. We agreed, and this bill includes a section 128 waiver provision that the administration requested. Chairman LUGAR and I yield to nobody in our commitment to nonproliferation, and no one has a stronger record on this than Senator LUGAR. We believe we have presented to this body a bill that allows civil nuclear cooperation with India to proceed and ends India's nuclear isolation, but it does so without seriously jeopardizing the hard-won nonproliferation gains of nearly the last four decades.

Specifically, our aims have been as follows:

To preserve the right of Congress to conduct a meaningful review of the peaceful nuclear cooperation agreement that India and the United States are negotiating; secondly, to ensure that such nuclear cooperation is used exclusively in India's civil nuclear program and that India continues to be a "good citizen" when it comes to nonproliferation, as it has been; to preserve the role and procedures of the Nuclear Suppliers Group and of the International Atomic Energy Agency; and to do all this without requiring any renegotiation of the United States-India treaty deal.

Look, every time we have a treaty presented to us in the Senate, there are those of us, including my friend from North Dakota who is on the Senate floor, who believe we can probably do it better. We believe we could have gotten a better deal. We believe we could have gotten a treaty that was even better than the one that exists. But the old expression is that we cannot let the perfect be the enemy of the good.

It wasn't really very easy to do what we set out to do, but I truly believe we have succeeded in the points I have just made. There is a reason this bill was reported out of committee with a 16-to-2 margin; we did really try to address the major nonproliferation concerns legitimately raised by colleagues in the committee.

The Foreign Relations Committee did not endorse, for example, the administration's request for broad waiver authority regarding section 129 of the Atomic Energy Act. That section terminates nuclear exports to a country under certain circumstances. The administration did not want that in place.

The committee agreed that the President needs the right to waive those portions of section 129 which would end exports because India has a nuclear weapons program or because it has tested nuclear devices in the past. But section 3709 doesn't grant a waiver authority regarding those portions of section 129 which would end nuclear exports if India were to, 1, test a nuclear device in the future; 2, terminate or materially violate the IAEA safeguard; 3, materially violate its agreement with the United States, or engage in nuclear proliferation.

Look, if India does any of those things, then the premise upon which we have dealt with a good friend and neighbor was falsely relied upon. I believe India understands the consequence of this bilateral relationship as profoundly as we do. If I am wrong about that and India were to do any or all of the four things I just named, it would clearly violate the spirit of this agreement, part of which, as all agreements ultimately are, is based on some sense of comity and trust.

This bill requires that India sign a safeguards agreement with the IAEA and negotiate an additional protocol as well. It requires the President to certify, moreover, that the safeguards agreement is "in accordance with IAEA standards, principles, and practices." The President must certify to that effect.

We understand that India, having nuclear weapons, will not accept full-scope safeguards. But the language in this bill makes clear our expectation that the safeguards agreement India works out with the IAEA will guard effectively against diversion of foreign nuclear material and technology to India's military program.

Section 3709 also requires the President to certify that the Nuclear Suppliers Group has decided to permit civil nuclear commerce with India and that the NSG, Nuclear Suppliers Group, decision was made by consensus. We do not want to damage the Nuclear Suppliers Group, which has been a vital institution in our fight against nuclear proliferation. So this bill protects the Nuclear Suppliers Group's role in governing peaceful nuclear commerce.

The administration has said repeatedly that this is an India nuclear deal, not intended to permit nuclear commerce with Pakistan or Israel—the only other states that never signed the NPT. The committee's bill incorporates that distinction by requiring the President to certify that the NSG—Nuclear Suppliers Group—decision does not permit nuclear commerce with any other state that does not accept full-scope safeguards.

The NSG is not likely to single out India as an exception to its guidelines. Rather, it will create tests that a non-NPT state must meet before nuclear commerce with the country may take place. The committee believes that such a test should be substantial, so that the countries outside the NPT are not all given the same benefits as the nonnuclear weapon states inside the treaty. Thus, the bill before us today is designed to maintain important nonproliferation policies that have served our country well.

With regard to sections 106 and 107, two sections of this bill, they have been cited by some Indian officials as causing concern. I will address these sections, as I do not believe such concern is merited.

Section 106 in the agreement bars the executive branch from exporting to India "any equipment, materials, or

technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water." That is because these technologies are all used to produce fissile material for nuclear weapons. In fact, the administration already has a worldwide policy of not exporting these technologies. Section 106 merely makes that a legal requirement in this case.

Because section 106 makes this a legal requirement, we also added two exemptions. One would be for a program such as the Global Nuclear Energy Partnership, which is to develop a new generation of proliferation-resistant nuclear facilities. In other words, the second exemption would be for a facility in an IAEA-approved program to provide alternatives to national fuel cycle capability. For example, there might some day be a South Asian regional uranium enrichment facility under IAEA auspices.

Some Indian officials are reportedly upset because section 106 singles out India. But they have long known that it is U.S. policy not to sell them these technologies, so this is a matter more of pride than of substance, which I hope they deal with. I would not object to making section 106 apply worldwide, but we believed this was too large a step to take in this bill. I would think it should apply worldwide.

Section 107 requires a program to maintain accountability with respect to nuclear materials, equipment, and technology that we sell, lease, export, or reexport to India. This program would include end-use monitoring conditions, as appropriate. A similar program exists for U.S. nuclear exports to China. Such a monitoring program would enhance confidence in India's separation of its civilian and military nuclear programs. It would also further ensure U.S. compliance with article I of the nonproliferation treaty.

Indian officials are reportedly upset that American personnel might need to visit India's nuclear sites. It should come as no surprise, however, that we need to ensure that U.S. nuclear materials, equipment, and technology are not diverted to military uses.

The purpose of section 107 is not to impose new conditions upon India but, rather, to make sure the executive branch doesn't forget its obligation to guard against diversion. That obligation is already U.S. policy. It also flows from article I of the nonproliferation treaty, which requires nuclear weapon states not to assist nonnuclear weapon states "in any way" to manufacture nuclear weapons. And India remains a nonnuclear weapons state under both the NPT and U.S. law, despite the fact that now it does have nuclear weapons.

I hope that in conference we can adjust the wording of section 107 to correct any potential misunderstanding of its effect, which is not intended to be onerous. I also hope that Indian officials will understand the U.S. need to embark upon nuclear commerce with India in a manner that maintains our

nonproliferation policies and fulfills our international obligation. I believe the bill reported out by the Foreign Relations Committee does that in a most reasonable manner and that it will provide a strong foundation for a new beginning in United States-Indian relations.

The United States-Indian agreement is much more than just a nuclear deal, though, Mr. President. I believe historians will see this as a historic step, part of the dramatic and positive departure in United States-Indian relationship that was begun by President Clinton.

President Bush is to be commended for continuing and accelerating the journey President Clinton started in our relations with India.

If I were asked to name the pillars for security in the 21st century, India and the United States would be two of them. India and the United States, working in cooperation toward the same goal, can provide the beginning of a strong foundation for a stable world. And for the United States, no relationship, in my view, is more important than the United States-India relationship maturing along the lines that have begun.

The ultimate success of this agreement will rest on India's willingness and ability to reduce tensions with its nuclear neighbors and achieve nuclear stability. We all hope to see the day when India and Pakistan voluntarily reduce or end their fissile material production, as the recognized NPT nuclear weapons states already have done.

I hope especially that India will not use its peaceful nuclear commerce to free up domestic uranium for increased production of nuclear weapons. The United States-India deal doesn't bar India from doing that. But such a nuclear buildup—unless carried out in response to a direct threat from its nuclear-armed neighbors—would be a gross abuse of the world's trust, in my view. It would sour relations between India and the United States, just at a time when both countries hope to build upon a new foundation that has been laid in the past decade and which I respectfully suggest is in the overwhelming self-interest of both countries.

India and the world will also benefit if India embraces these critical nonproliferation standards. These include the Proliferation Security Initiative; the guidelines and policies of the Australia Group, which, I add, controls exports that could help countries build chemical or biological weapons; and the guidelines and policies of the Wassenaar Arrangement, which combats the spread of advanced conventional weapons.

India is a major world power. India needs to—and will, I believe—step up to this awesome responsibility. As an important world power, it is important that support for the complete nonproliferation regime would make a gigantic difference in the world. Cur-

rently, however, India doesn't stop its companies from exporting dual-use chemicals and equipment to countries such as Iran because those exports are not banned by the Chemical Weapons Convention.

Other leading countries have concluded that unrestrained exports of items that could be used to produce chemical or biological weapons and advanced conventional weapons are a real danger to world stability. It is my fervent hope and prayer that India reaches that conclusion as well. It is time for them to adopt, in my opinion, the same approach to the dangers posed by such proliferation.

India will not attain the respect and status it seeks and deserves in the world unless it takes a willing and active role in preventing proliferation of all kinds. The nuclear deal we are considering today is a sign, however, of the world's desire to bring India into the fold. I hope India will use this deal as a departure point from which it will branch out to embrace all international nonproliferation activities. It will surely be welcomed if it does.

In my view, the bill before us is a victory for United States-India relationships. It is a victory for the quest to move beyond fossil fuels. And it is a victory we have achieved while doing our best to maintain the global effort to end proliferation.

I believe, not guaranteed by this agreement, it will be also a point of departure for India to rethink its role in the world with regard to proliferation of all kinds. I sincerely hope it does.

I end where I began. I think United States-India relations is two of the pillars upon which we have a chance—we have a chance, a real chance—to build a 21st century that is much more stable than the 20th century and to avoid the carnage of the 20th century. It cannot be done without India's cooperation, and it can be done with India's leadership.

I thank my colleagues for listening. I understand my friend from North Dakota may have an amendment or may wish to seek the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I wish I were on the Senate floor today able to be supportive of the chairman and ranking member of the committee. They have both given persuasive and eloquent statements about the matter.

I come to the floor of the Senate with a different view. I come here very disappointed because I think we are beginning down a very troublesome road for this country. I want to talk a little about what all this means.

I know the issue is not an issue that rates at the top of the attention of the American people at the moment, this Government, or the press corps. This is an issue about whether there will be more nuclear weapons built in a world in which there are already too many nuclear weapons. This is an issue in

which we are going to discuss the issue of nonproliferation, stopping the spread of nuclear weapons at a time when we have terrorism in this world that we worry could result in a terrorist organization acquiring a nuclear weapon and detonating a nuclear weapon in a major American city.

Mr. President, I ask unanimous consent to show a couple of items on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my colleague, Senator LUGAR, is someone who has been a real leader with Senator Nunn on the Nunn-Lugar program, which I have been proud to support. It has been a program that has actually reduced the number of nuclear weapons and reduced the delivery systems for nuclear weapons. It is what we aspire to do. It is what our country should lead the world in doing, and that is to step away from the proliferation of nuclear weapons and the building of new nuclear weapons.

This is a piece of a wing strut from a Backfire bomber. This used to be flying in the air, part of a wing strut from a Soviet Backfire bomber that likely carried nuclear weapons that threatened our country. We didn't shoot this plane down. This wing strut was sawed off. The wing was destroyed. The plane was destroyed. It was dismantled.

How did that happen? We actually paid for it. My colleagues, Senator Nunn and Senator LUGAR, proposed legislation that allowed us to, with the Russians, actually begin to destroy and reduce delivery systems and nuclear weapons. So this bomber that carried a nuclear weapon, presumably to threaten this country, doesn't exist anymore. A piece of its wing is in my desk drawer in the United States Senate.

This is a vile of ground-up copper. This used to be part of a Soviet submarine, that prowled under the water with missiles and warheads presumably aimed at U.S. cities. Yes, this used to be a Soviet submarine carrying weapons of mass destruction threatening our country.

This was a hinge on a missile silo in the Ukraine, and that missile silo contained a missile. That missile contained nuclear warheads, presumably aimed at a U.S. military target or a U.S. city. This hinge, of course, is in my desk today, not in a field in the Ukraine. Where that missile used to sit, there is no missile. There is no missile silo. There are now sunflowers planted in that field in the Ukraine.

The Ukraine, Kazakhstan and Belarus—all three countries—had several thousand nuclear weapons and are now free of all nuclear weapons.

How did all that happen? Was it by accident? No, no, it wasn't. This country embarked on a set of policies and proposals that resulted in the reduction of delivery systems and nuclear weapons.

Have we been enormously successful? I have described some successes, but we

have, oh, probably 25,000 to 30,000 nuclear weapons remaining on this Earth. Far too many—25,000 to 30,000 nuclear weapons. We have much to do to step away from the abyss of having a terrorist organization or rogue nation acquire nuclear weapons and threaten our country or threaten the world.

We have all experienced 9/11/2001 where several thousand innocent Americans were murdered. That was an unbelievable terrorist attack on our country. It could happen again with a nuclear weapon. We are going to spend \$9 billion or \$10 billion this year building an antiballistic missile defense system to create some sort of an electronic catcher's mitt to catch an intercontinental ballistic missile someone might aim at our country armed with a nuclear warhead.

That is one of the least likely threats our country faces. We are going to spend close to \$10 billion for a threat that is one of the least likely threats we face.

The most likely threat, perhaps, instead of an intercontinental ballistic missile coming in at 18,000 miles an hour aimed at an American city, is a container ship pulling up to a dock in a major American city at 3 miles an hour with a container that contains a weapon of mass destruction onboard, to be detonated in the middle of an American city.

Let me read for the RECORD, as I start—and I want to then talk about this specific agreement—I want to read an excerpt from Graham Allison's book. He is at Harvard. He wrote a book called "Nuclear Terrorism: The Ultimate Preventable Catastrophe."

I talk about 9/11/2001, several thousand Americans murdered by terrorists. The detonation of a nuclear weapon in an American city by a terrorist group will not mean several thousand Americans being murdered; it could likely mean several hundred thousand Americans being murdered, or more.

Let me read to you from Graham Allison's book. I am quoting:

On October 11, 2001, a month to the day after the terrorist assault on the World Trade Center and the Pentagon, President George W. Bush faced an even more terrifying prospect. At that morning's Presidential Daily Intelligence Briefing, George Tenet, the director of central intelligence, informed the president that a CIA agent code-named Dragonfire had reported that Al Qaeda terrorists possessed a ten-kiloton nuclear bomb, evidently stolen from the Russian arsenal. According to Dragonfire, this nuclear weapon was now on American soil, in New York City.

The CIA had no independent confirmation of this report, but neither did it have any basis on which to dismiss it. Did Russia's arsenal include a large number of ten-kiloton weapons? Yes. Could the Russian government account for all the nuclear weapons the Soviet Union had built during the Cold War? No. Could Al Qaeda have acquired one or more of these weapons? Yes. Could it have smuggled a nuclear weapon through American border controls in New York City without anyone's knowledge? Yes. . . .

In the hours that followed, national security adviser Condoleezza Rice analyzed what

strategists call the "problem from hell." Unlike the Cold War, when the United States and the Soviet Union knew that an attack against the other would illicit a retaliatory strike of greater measure, Al Qaeda—with no return address—had no such fear of reprisal. Even if the president were prepared to negotiate, Al Qaeda had no phone number to call.

Clearly, no decision could be taken without much more information about the threat and those behind it. But how could Rice engage a wider circle of experts and analysts without the White House's suspicions leaking to the press? A CNN flash that the White House had information about an Al Qaeda nuclear weapon in Manhattan would create chaos. New Yorkers would flee the city in terror, and residents of other metropolitan areas would panic.

I continue to quote:

Concerned that Al Qaeda could have smuggled a nuclear weapon into Washington as well, the president ordered Vice President Dick Cheney to leave the capital for an "undisclosed location," where he would remain for many weeks to follow. That was standard procedure to ensure "continuity of government". . . . Several hundred federal employees from more than a dozen government agencies joined the vice president at this secret site. . . . The president also immediately dispatched NEST specialists (Nuclear Emergency Support Teams of scientists and engineers) to New York City to search for the weapon. But no one in the city was informed of the threat, not even Mayor Rudolph Giuliani.

As the CIA's analysts examined Dragonfire's report and compared it with other bits of information, they noted that the attack on the World Trade Center in September had set the bar higher for future terrorist spectacles.

I won't read to the end. I ask unanimous consent that this document be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DORGAN. At the end of this process, they finally determined after about a month that this was not a credible threat. Dragonfire's report turned out not to be credible.

But at the time they took the report very seriously. They analyzed it this way: Was it possible that a Russian 10-kiloton nuclear weapon could have been stolen? Yes, it was possible. Is it possible a terrorist group could have acquired it? Yes. Is it possible it could have been smuggled into New York City? The answer was yes. And, if so, was it possible a terrorist group could detonate a nuclear weapon in a major American city? The answer was yes.

This is not fiction. I am reading an excerpt of a book of something that happened in October of 2001.

My greatest fear is that we do not yet understand the difference between what was and what is. What was, was a standoff called the cold war in which two major nuclear superpowers aimed massive numbers of nuclear warheads at each other, but understanding, under the concept of mutually assured destruction, called MAD, that if either attacked the other, the other would be literally vaporized by an avalanche of nuclear weapons. The result was that

there was a standoff, a mutually assured destruction standoff, and although both sides in that Cold War—the United States and the Soviet Union—possessed the most unbelievably powerful killing machines known to humankind, they were not used. Neither side ever used them.

Fast-forward to today. The Cold War is over. President Bush, in fact, visited with the President Putin yesterday, in Russia. Times have changed, but this world still has somewhere between 25,000 and 30,000 nuclear weapons, the loss of one of which could be cataclysmic for this world. The detonation of one nuclear weapon in a major city will change everything—everything—and be a catastrophe unlike any we have previously known.

If we have 25,000 or 30,000 nuclear weapons on this Earth, what is the responsibility of this great country? What is our responsibility? What burden falls on our shoulders? I submit it is the burden to provide world leadership to stop the spread of nuclear weapons and to reduce the threat of nuclear weapons and to reduce the stockpile of nuclear weapons. That is our responsibility. That responsibility falls on us.

How do we do that? Listen, our country has provided leadership in a non-proliferation treaty, the Nuclear Non-Proliferation Treaty, the test ban treaty. Our country has been moving always, telling the rest of the world we aspire to stop the spread of nuclear weapons. Now we live in this age of terrorism where we see people who are perfectly content to kill themselves. They don't care. As long as they can take a weapon with them and kill themselves and many others with them, it doesn't matter to them. They are reaching for some higher glory, apparently.

In this age of terrorism, everything about nuclear weapons has changed. The loss of one nuclear weapon, the loss of one anywhere on this globe to a terrorist organization is going to be devastating.

So if that is the case, what does it have to do with what we are talking about today? We are now talking today about a country called India. India is quite a remarkable place—a wonderful country with wonderful people. It is a big country. It is trying to build an economy. You can read some books about what is going on in India and the discussions about progress—it is quite a remarkable place. Our country aspires to have a better relationship with India. I support that. I believe we ought to reach out to India and improve our relationship, cement our relationship.

I know there are some who see all of the geopolitical relationships on this Earth as aligning one way or the other. We align with this country to be a counterweight against this set of interests, and it is kind of akin to teams. So I confess to you, I come here today not perhaps understanding all of the sophisticated elements of counterweights

and the nuances of why someone believes it is essential, at this point, to allow India to produce additional nuclear weapons in order to create some sort of counterweight to China, but I want to talk about this issue. I was unbelievably surprised to read in the newspaper of the travels of Ambassador Burns, someone for whom I have high regard, and of the interest of Secretary of State Condoleezza Rice in going to India and reaching a deal without consulting Congress that I think begins to unravel, and undermine several decades of efforts in our country to tell the world: It is our responsibility and our major goal to stop the spread of nuclear weapons and try to reduce the number of nuclear weapons and reduce the nuclear threat.

We would not be in this position today with this bill with India if India had followed the example, for example, of South Africa. They secretly had nuclear weapons by the 1980s. But South Africa dismantled them prior to the transfer of power to the postapartheid government. Ukraine, Kazakhstan, and Belarus had more than 4,000 nuclear weapons in those three countries when the Soviet Union was dissolved which they gave up in the years following. And I must say that my colleague Senator LUGAR and others had significant successes in working with those three countries to accomplish that. So Ukraine, Kazakhstan, and Belarus are all now free of nuclear weapons.

Any nuclear deal—any relationship we have with another country that deals with nuclear power and nuclear issues should be judged, in my opinion, on whether it reduces the number of nuclear weapons. Does it reduce the nuclear weapons that exist or increase them? It is quite clear that what we are debating will result in an increase in nuclear weapons in India. I don't think there is much doubt about that. This bill fails that test, in my judgment.

Experts have warned that there is enough weapons-usable fissile material in the world to make about 130,000 nuclear weapons. A working nuclear bomb, we are told, can be made with as little as 35 pounds of uranium-235 or 9 pounds of plutonium-239. And the acquisition of a nuclear weapon by a terrorist is, in my judgment, the greatest threat that exists in our country.

Retired GEN Eugene Habiger, who commanded America's nuclear forces, said that nuclear terrorism "is not a matter of if, it is a matter of when."

Henry Kissinger wrote in the Washington Post recently:

The world is faced with the nightmarish prospect that nuclear weapons will become a standard part of national armament and wind up in terrorists' hands.

Former Senator Sam Nunn wrote in the Wall Street Journal:

We know that terrorists are seeking nuclear materials—enriched uranium or plutonium—to build nuclear weapons. We know that if they get that nuclear material, they can build a nuclear weapon. We believe that

if they build such a weapon, they will use it. We know terrorists are not likely to be deterred, and that the more this nuclear material is available, the higher the risks.

Osama bin Laden has been seeking nuclear components since the 1990s. In 1998, Osama bin Laden issued a statement entitled "The Nuclear Bomb of Islam," declaring:

It is the duty of Muslims to prepare as much force as possible to terrorize the enemies of God.

And Osama bin Laden's spokesman announced that the group aspires "to kill 4 million Americans, including 1 million children," in response to casualties supposedly inflicted on Muslims by the United States and Israel.

The more countries there are with nuclear weapons and weapons-grade nuclear material and the more weapons each of them has, the greater the threat that one will be used by a rogue nation or will fall into the hands of terrorist groups.

Now, frankly, we have not been very aggressive as a country in recent years in stopping proliferation. Instead of talking about how we would reduce the number of nuclear weapons, we were on the floor of the Senate, during previous debates, talking about the fact that we need new nuclear weapons. Our country has said we need designer nuclear weapons; we need bunker-buster nuclear weapons. We have people openly speaking about the desire in this country to build additional nuclear weapons.

We attacked Iraq because we believed it possessed and was seeking nuclear weapons and weapons of mass destruction. We are spending \$10 billion a year, as I said, on missile defense for fear that North Korea already has nuclear weapons. And we are talking about serious issues with Iran in order to try to stop its nuclear program. And the No. 1 nightmare is that a terrorist group may acquire a nuclear weapon. No one in my judgment can credibly say that a world that has more nuclear weapons is a safer world. It is just not.

Nowhere in the world is the threat of nuclear terrorism more imminent than in South Asia. It is the home to al-Qaida which seeks nuclear weapons. It is an area where relations among regional nuclear powers are always tense: China, India, and Pakistan. India and China fought a border war in 1962. India and Pakistan fought three major wars, had numerous smaller scale conflicts since the partition of British India in 1947. Both India and Pakistan detonated nuclear weapons in 1998 and declared themselves as nuclear powers. And after that, all of us in the world held our breath as they began fighting a limited war in Kashmir.

Now, it has traditionally been the case that the United States has led the international community in efforts to deny India, Pakistan, and other non-nuclear States access to nuclear technology. That has been our traditional role. We have always been the one who said: No, no, no. We can't do that. We

need to limit the capability of nations that will not sign up to nonproliferation.

We pushed for the nonproliferation treaty, which prohibits nuclear assistance to these so-called nonnuclear States, unless they agree to put all of their nuclear facilities under international safeguards and to give up the option of developing a nuclear weapon. That has been our position. It has always been our position.

Article I of the nonproliferation treaty obligates the recognized nuclear weapons States, including the United States, to:

Not in any way assist, encourage, or induce any non-nuclear weapons State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.

That is Article I of the nonproliferation treaty. We signed it. We helped write it. We supported it. It is what we believe in.

The United States helped form the Nuclear Suppliers Group in 1975 to help prevent the misuse of peaceful nuclear technology. In 1978, we passed the Nuclear Non-Proliferation Act, which restricts nuclear commerce with States that don't agree to the full scope of the safeguards. We pushed for U.N. Security Council Resolution 1172 which condemned India's and Pakistan's 1998 nuclear tests and called upon them to cease their nuclear weapons programs and join the nonproliferation treaty as nonnuclear weapons states. We did that.

In 1998, President Clinton imposed sanctions on both India and Pakistan, under section 102 of the Arms Control Act, which requires sanctions on any non-nuclear weapons state that has detonated nuclear devices.

Now, these policies did not stop India's and Pakistan's nuclear weapons programs, but they did restrain them and they hindered them. In fact, that is precisely why we are here with respect to India.

The Bush administration has taken a different tact now. Their proposal is to provide "full" assistance to India's civilian nuclear program, while India keeps its nuclear weapons, which represents a complete abandonment of our traditional approach to nonproliferation.

I don't think you can come to the floor and argue that this is part of an approach we have always taken. This is a U-turn. This is a 180-degree change from the approach we have always had. The Bush administration formed an agreement that allows New Delhi to dramatically expand its stockpile of nuclear weapons and could ignite a regional arms race. That is what we have here. They can have reactors behind the curtain that will not be subject to inspection by anybody. That is part of the deal. It will undermine 30 years of nonproliferation efforts at the very time when we are engaged in these issues with North Korea and Iran.

It is a major, it seems to me, exception to the prohibition of nuclear assistance to any country that doesn't

accept international monitoring of all of its nuclear facilities. This is a major exception to that. And it also is one that gives legitimacy to a nuclear arsenal that India secretly developed, and it is not going to help us in any way. It will hinder us in convincing others to give up their nuclear weapons.

Now, India never signed the non-proliferation treaty. Because of that, Pakistan never signed the treaty. In the 1960s, India used both American technology and also Canadian technology and the nuclear fuel provided under what was called the Atoms For Peace Program to secretly build nuclear weapons. By doing so, New Delhi broke an explicit pledge to both the United States and to Canada about the use of technology and nuclear fuel only for peaceful purposes. In 1974, India conducted its first nuclear weapons test. It denied that it had done so. It said it was a peaceful nuclear test.

In May, 1998, they conducted a series of nuclear tests and declared themselves as a nuclear weapons state. In response, Pakistan did exactly the same thing and declared themselves as a nuclear state.

Because India has a shortage of domestic uranium, the application of the U.S. and international laws that prevent the sale of nuclear fuel and other nuclear assistance to them has seriously constrained its nuclear power industry and nuclear weapons program. All of us understand that India has energy issues. It has an expanding population and it wishes to build additional powerplants, nuclear powerplants, but it also wishes to build additional nuclear weapons. India's power reactors, we are now told, are operating at less than capacity due to fuel shortages and their utilization rates are expected to decrease even further. Very little uranium is leftover from its domestic supplies for India to turn to nuclear weapons. So in the past year—couple of years—New Delhi has stepped up efforts to get our assistance in obtaining nuclear fuel and reactor components so it can increase its nuclear power. But the fact is, it will also increase its nuclear weapons programs.

Here is what the deal that is now brought to the floor of the Senate does: My understanding is that it obligates the United States to persuade the members of the Nuclear Suppliers Group to change their rules which bar sales to India. It allows India to buy sensitive nuclear technologies, now forbidden under the nonproliferation treaty. It includes nuclear fuel, nuclear reactors, and advanced technology. This agreement would open the door to India's cooperation with France, Japan, and others who want to do business with India and who now have not been doing business with India because of the NPT. In return, in this agreement, India has agreed to allow the IAEA inspections and safeguards at 14 of their 22 planned nuclear power reactors. But eight of their nuclear power reactors will be placed behind a cur-

tain. No one will be able to inspect them. That is where they will be able to continue increasing the production of nuclear weapons, and it is not—you wonder, do they want to produce additional nuclear weapons? Let me quote directly from a senior adviser to India's nuclear program, December 2005, an article in *The Times of India*. Dr. Subrahmanyam says:

Given India's uranium ore crunch and the need to build up our minimum credible nuclear arsenal as fast as possible, it is to India's advantage to categorize as many power reactors as possible as civilian ones to be refueled by imported uranium and conserve our native uranium fuel for weapons-grade plutonium production.

This is clear:

Given India's . . . crunch and the need to build up our minimum credible nuclear deterrent arsenal. . . .

That is what this is about in India.

We have those who support this, who say it is not perfect, but it is not bad. I don't know whether the contention on the Senate floor is going to be that this will not result in additional warheads. But I am clear, and I think everybody should be clear, it will. India will produce additional nuclear weapons. We believe, if that makes the world safer, I guess that is what one can argue. I do not believe that at all. I think the addition of nuclear weapons to the stockpile that exists in this world is a serious danger to the world.

Pakistan has already said: If you are going to give this deal to India, how about giving this deal to us? We might want to look at what we are doing. The administration just proposed, by the way, a big arms package for Pakistan: 36 Lockheed F-16C/D fighter planes, 500 JDAM satellite-guided bomb kits, 700 bunker buster bombs, 1,600 laser-guided bombs, 800 conventional bombs, 500 AMRAAM air-to-air missiles, 200 Sidewinder air-to-air missiles, 130 Harpoon antiship missiles, 115 self-propelled howitzers.

That is an arms package to Pakistan. But Pakistan would say: We have nuclear weapons. We exploded them. We showed you we have nuclear weapons. You are going to give this deal to build more nuclear weapons to India. We want that deal for Pakistan. We want to build more nuclear weapons.

What will China say? What will China say when they see this agreement and decide that India is increasing its stockpile? China will say: We want to increase the stockpile of nuclear weapons.

India is in the process of becoming a full-fledged nuclear power with a triad, an emerging triad. Aircraft? They have a number of types of aircraft used to deliver a nuclear weapon, or that could be so used, and land-based missiles and naval weapons.

I do not allege that India is a country that is an aggressor. That is not my point. I think our relationship with India is important. I believe we ought to connect with India. We ought to reach out to India. We ought to have

an improved relationship with India. I don't know, maybe it is advantageous to have India as a counterweight in the region to China.

But, look, do any of us really believe that an agreement that pulls the rug out from under decades of positions we have held in this country on non-proliferation that results in the building of additional nuclear weapons advances our interests? Advances the world's interests? Of course not.

It falls on our shoulders as the nuclear power in the world. It is our responsibility to stop the spread of nuclear weapons. Will our children or our grandchildren someday see a nuclear weapon detonated in a major American city? Will we see that? We didn't see it during the Cold War because we had mutually agreed destruction; that is, both countries, us and the Soviet Union, understood if one launched a missile or airplane containing a nuclear weapon to be detonated in our country, we would launch sufficient nuclear weapons to completely destroy their country and their society. Both sides understood that. Both sides understood we have arsenals that would destroy each other and neither side did. Neither side was an aggressor.

In an age of terrorism, all of that has changed. In an age of terrorism, if we do not embrace policies that stop the production of additional nuclear weapons, we have missed an enormous opportunity to prevent the detonation of a nuclear weapon in one of our cities. This agreement simply does not stop the spread of nuclear weapons. It doesn't prevent the production of additional nuclear weapons. This undermines that which we have described as our goal in the United Nations. It undermines that which we have for decades described as being our goal as a leader in nonproliferation. It provides the green light for India to produce additional nuclear weapons.

With all the sophisticated arguments in favor of this agreement, I fail to see how undermining decades of effort at nonproliferation and now providing a green light to India to produce new nuclear weapons, additional nuclear weapons, makes this a safer world. Quite the contrary. I think it is dangerous. I think this agreement is a horrible mistake. I think all of the sophisticated calculations mean very little when we have decided to send signals to the world that we do not oppose producing additional nuclear weapons; that we support that.

We are willing to decide to undermine the nonproliferation treaty. We are willing to ignore United Nations resolutions all because Ambassador Burns and Secretary Rice and the Bush administration said: You know what, we have all these calculations about weights and counterweights and geopolitical strategies and here is our new one. It is a new strategy that undermines decades of what ought to be the best virtue of this country, and that is providing world leadership, real world

leadership, aggressive world leadership to stop the spread of nuclear weapons and prevent the building of more nuclear weapons and begin reducing the number of nuclear weapons that exist in this world.

As I said when I started, I regret very much I am on the other side of this issue from Senator LUGAR. Senator LUGAR has great credibility on these issues because he has done a very substantial amount of good work. I am not quite sure how I should describe this. I was extraordinarily surprised when I read the first account in the newspaper that it was likely that this agreement was going to be supported by my colleague and friend. I would say the same with respect to Senator BIDEN. I have great respect for them. So I am someone who comes to the floor of the Senate in disagreement. That doesn't mean I in any way disparage their abilities or their intellectual honesty in pursuing strategies they believe are best for this country.

I have very strong opposition to those who believe, however, that this in any way represents our best interests. I wish I could come to the Senate floor with a better message, but I do not. I believe one day we will look back on this with great regret. We have seen that in this decade already with some other decisions, information provided us with respect to Iraq and other decisions we have made. We have already, in my judgment, had opportunities to understand regret about policies undertaken that turned out to be not in this country's best interests.

I believe if we open the floodgates with this agreement, we will seriously undermine this country's best interests.

EXHIBIT 1

[From Blueprint Magazine, October 7, 2004]

NUCLEAR TERRORISM—BOOK EXCERPT

(By Graham Allison)

On October 11, 2001, a month to the day after the terrorist assault on the World Trade Center and the Pentagon, President George W. Bush faced an even more terrifying prospect. At that morning's Presidential Daily Intelligence Briefing, George Tenet, the director of central intelligence, informed the president that a CIA agent code-named Dragonfire had reported that Al Qaeda terrorists possessed a ten-kiloton nuclear bomb, evidently stolen from the Russian arsenal. According to Dragonfire, this nuclear weapon was now on American soil, in New York City.

The CIA had no independent confirmation of this report, but neither did it have any basis on which to dismiss it. Did Russia's arsenal include a large number of ten-kiloton weapons? Yes. Could the Russian government account for all the nuclear weapon the Soviet Union had built during the Cold War? No. Could Al Qaeda have acquired one or more of these weapons? Yes. Could it have smuggled a nuclear weapon through American border controls into New York City without anyone's knowledge? Yes. In a moment of gallows humor, someone quipped that the terrorists could have wrapped the bomb in one of the bales of marijuana that are routinely smuggled into cities like New York.

In the hours that followed, national security adviser Condoleezza Rice analyzed what

strategists call the "problem from hell." Unlike the Cold War, when the United States and the Soviet Union knew that an attack against the other would elicit a retaliatory strike for greater measure, Al Qaeda—with no return address—had no such fear of reprisal. Ever if the president were prepared to negotiate, Al Qaeda had no phone number to call.

Clearly no decision could be taken without much more information about the threat and those behind it. But how could Rice engage a wider circle of experts and analysts without the White House's suspicions leaking to the press? A CNN flash that the White House had information about an Al Qaeda nuclear weapon in Manhattan would create chaos. New Yorkers would flee the city in terror, and residents of other metropolitan areas would panic. The stock market, which was just then stabilizing from the shock of 9/11, could collapse.

American Hiroshima. Concerned that Al Qaeda could have smuggled a nuclear weapon into Washington as well, the president ordered Vice President Dick Cheney to leave the capital for an "undisclosed location," where he would remain for many weeks to follow. This was standard procedure to ensure "continuity of government" in case of a decapitation strike against the U.S. political leadership. Several hundred federal employees from more than a dozen government agencies joined the vice president at this secret site, the core of an alternative government that would seek to cope in the aftermath of a nuclear explosion that destroyed Washington. The president also immediately dispatched NEST specialists (Nuclear Emergency Support Teams of scientists and engineers) to New York to search for the weapon. But no one in the city was informed of the threat, not even Mayor Rudolph Giuliani.

Six months earlier the CIA's Counterterrorism Center had picked up chatter in Al Qaeda channels about an "American Hiroshima." The CIA knew that Osama bin Laden's fascination with nuclear weapons went back at least to 1992, when he attempted to buy highly enriched uranium from South Africa. Al Qaeda operatives were alleged to have negotiated with Chechen separatists in Russia to buy a nuclear warhead, which the Chechen warlord Shamil Basayev claimed to have acquired from Russian arsenals. The CIA's special task force on Al Qaeda had noted the terrorist group's emphasis on thorough planning, intensive training, and repetition of successful tactics. The task force also highlighted Al Qaeda's strong preference for symbolic targets and spectacular attacks.

Staggering the imagination. As the CIA's analysts examined Dragonfire's report and compared it with other bits of information, they noted that the attack on the World Trade Center in September had set the bar higher for future terrorist spectacles. Psychologically, a nuclear attack would stagger the world's imagination as dramatically as 9/11 did. Considering where Al Qaeda might detonate such a bomb, they noted that New York was, in the jargon of national security experts, "target rich." Among hundreds of potential targets, what could be more compelling than Times Square, the most famous address in the self-proclaimed capital of the world?

Amid this sea of unknowns, analysts could definitively answer at least one question. They knew what kind of devastation a nuclear explosion would cause. If Al Qaeda was to rent a van to carry the ten-kiloton Russian weapon into the heart of Times Square and detonate it adjacent to the Morgan Stanley headquarters at 1585 Broadway, Times Square would vanish in the twinkling of an eye. The blast would generate tempera-

tures reaching into the tens of millions of degrees Fahrenheit. The resulting fireball and blast wave would destroy instantaneously the theater district, the New York Times building, Grand Central Terminal, and every other structure within a third of a mile of the point of detonation. The ensuing firestorm would engulf Rockefeller Center, Carnegie Hall, the Empire State Building, and Madison Square Garden, leaving a landscape resembling the World Trade Center site. From the United Nations headquarters on the East River and the Lincoln Tunnel under the Hudson River, to the Metropolitan Museum in the eighties and the Flatiron Building in the twenties, structures would remind one of the Alfred P. Murrah Federal Office Building following the Oklahoma City bombing.

On a normal workday, more than half a million people crowd the area within a half-mile radius of Times Square. A noon detonation in midtown Manhattan could kill them all. Hundreds of thousands of others would die from collapsing buildings, fire, and fallout in the ensuing hours. The electromagnetic pulse generated by the blast would fry cell phones, radios, and other electronic communications. Hospitals, doctors, and emergency services would be overwhelmed by the wounded. Firefighters would be battling an uncontrolled ring of fires for many days thereafter.

The threat of nuclear terrorism, moreover, is not limited to New York City. While New York is widely seen as the most likely target, it is clear that Al Qaeda is not only capable of, but also interested in, mounting attacks on other American cities, where people may be less prepared. Imagine the consequences of a ten-kiloton weapon exploding in San Francisco, Houston, Washington, Chicago, Los Angeles, or any other city Americans call home. From the epicenter of the blast to a distance of approximately a third of a mile, every structure and individual would vanish in a vaporous haze. A second circle of destruction, extending three-quarters of a mile from ground zero, would leave buildings looking like the Murrah building in Oklahoma City. A third circle, reaching out one and one-half miles, would be ravaged by fires and radiation.

Uncontrollable blaze. In Washington, a bomb going off at the Smithsonian Institution would destroy everything from the White House to the lawn of the Capitol building; everything from the Supreme Court to the FDR Memorial would be left in rubble; uncontrollable fires would reach all the way out to the Pentagon.

In a cover story in the New York Times Magazine in May 2002, Bill Keller interviewed Eugene Habiger, the retired four-star general who had overseen strategic nuclear weapons until 1998 and had run nuclear antiterror programs for the Department of Energy until 2001. Summarizing his decade of daily experience dealing with threats, Habiger offered a categorical conclusion about nuclear terrorism: "it is not a matter of if; it's a matter of when." "That," Keller noted drily, may explain why he now lives in San Antonio."

In the end, the Dragonfire report turned out to be a false alarm.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I want to say just one additional thing. I have two amendments that I intend to offer today. I do not intend to take a great amount of time with either of them. Both of them are very important. I wish to say to the chairman, I know he is working through this bill today. I want to be

cooperative but not so cooperative that I do not have an opportunity to fully explain amendments that I think are very important relative to what I just described.

The amendments I will offer, one has to do with requiring India to comply with what the U.S. is already required to comply with, the second relates to a United Nations resolution, that our country pushed, that represents American policy that appears to be completely contradictory to the underlying bill on the floor of the Senate.

I say to the chairman, I will have two amendments. I am prepared in a reasonable period to offer the amendments. I do have, with Senator MCCAIN, an obligation at 12 o'clock for a few minutes off the Senate floor. We are going to be speaking to a group. But following that, I would be happy to come over and offer my two amendments if the Senator is willing to have me do that.

Mr. LUGAR. I would like to respond to my distinguished colleague. I appreciate the appointment that he has with our colleague from Arizona. My hope would be that the Senator would proceed with his amendments. It would be timely to do so at his earliest convenience. I encourage him to do so.

Mr. DORGAN. Mr. President, I missed the last point.

Mr. LUGAR. I just indicated as soon as you could proceed with your amendments, this would be timely, in terms of moving the progress of our bill today.

Mr. DORGAN. I will be off of the Senate floor for the other requirement that I have, but I will come back. My understanding is there is a proposal to perhaps try to modify one of my amendments?

Mr. LUGAR. That is correct. Staffs have been working on one of the amendments of the Senator with the hope it might be possible to accept that amendment. The other amendment would have to be offered and debated.

Mr. DORGAN. Yes. I intend to offer the other amendment, debate it, and ask for a recorded vote on it. I will take a look at the proposed modification to see what that modification is, but I will try to be back on the Senate floor as quickly as possible to accommodate the Senator's interests in getting it done.

Mr. LUGAR. I appreciate that and thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise today in strong support of S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act. This legislation has been thoughtfully crafted and will help cement an important partnership with a vitally important Nation in a part of the world that will become increasingly important for the future.

I first want to thank the chairman of the Foreign Relations Committee, Senator LUGAR, for his commitment to

this agreement from the very beginning. Thoughtful, as he always is, I thank him for his knowledge, his expertise, his wisdom, trying to make sure this is appropriate for our country, as well as India, and making sure there are provisions in there that are beneficial to our country while also not harming the ability of our friends in India to pass it in their country as well.

There is no person in the Senate more knowledgeable on anti-proliferation issues than Senator LUGAR. His leadership was instrumental in developing a bill with protocols that met the commitments made by our President while also respecting the safeguard agreements that have protected this country for decades. I thank our chairman.

The hearings by Chairman LUGAR back in the spring, along with informative testimony of Secretary Nicholas Burns, were a necessary lesson for our colleagues on the committee, and I think the entire United States, that explained the benefits and also helped remove outstanding concerns about this historic pact. Chairman LUGAR, earlier speaking on this measure, along with the ranking member on the Foreign Relations Committee, Senator BIDEN, addressed the specific sections of the bill, so I will not recite all of those provisions again for my colleagues. I wish to provide the principles behind it, the strategic goals that are achieved in this United States-India civil nuclear pact. I want to focus on the big picture and the long-term impact of this cooperation agreement.

First and foremost, the United States-India civil nuclear cooperation agreement is a significant foreign policy achievement for the advancement of our security. It is a significant achievement for the advancement of jobs, and also a significant achievement in improving the environment—the air quality particularly, in India. This strategic partnership between the world's oldest democracy, the United States, and the world's largest democracy, India, is desirable, and it is possible because we share the same values. We both believe in representative democracy. We believe in and are girded by the rule of law. We respect human rights and religious tolerance. We share the same goals for Asia and for the world, which are freedom and peace.

This pact, this partnership, this agreement, in my view, can be the beginning of a blossoming marriage between the people of the United States and the people of India. India is a vital ally and a key global partner in the war on terrorism. They understand it. They have been threatened in India. In fact, India has been hit by terrorism in the name of religious fanaticism and religious extremism. This agreement is a step forward also regarding concerns with nuclear proliferation. Some critics will argue this agreement under-

mines the Nuclear Non-Proliferation Treaty, but when you look at the facts, India has no record of proliferating nuclear material, nuclear equipment, or technology to any other countries. In addition, India's nuclear weapons are there for self-defense and India has been a consistent practitioner of the "no first use" doctrine when it comes to nuclear weapons.

India has been an exception in this regard and, in my view, should be viewed differently than other countries that do not have such a record.

The fact is as a result of this agreement India will place a majority of its thermal power reactors under the International Atomic Energy safeguards for the very first time, and there also will be permanent inspections.

By contrast, Iran doesn't have the same sort of policy as India. Iran has kicked out the IAEA inspectors. This agreement helps bring India into the global nuclear mainstream where it is not right now.

It is very clear, whether it was Chairman LUGAR or Senator BIDEN and others, if you examine this agreement it is going to significantly increase transparency and oversight of its civilian nuclear program.

We also ought to look at the economic and energy benefits of this cooperation. India has tremendous energy needs that will only increase as their economy and country grows and increasingly prospers.

The United States-India nuclear agreement strengthens energy security for the United States and India by promoting the development and stable use of clean nuclear power, rather than relying on the Middle East for oil and gas, particularly from Iran. Obviously, India benefits through a reliable, affordable energy supply. United States companies will benefit from increased jobs and economic opportunity in the India energy market. Cooperation from this will also ensue, I believe, in clean coal technology and also biofuels.

Having been in India last November-December, the air quality there is awful. The coal they have in India is dirty coal. They have to import coal.

There are millions of people in India prospering as a country, and increasing. There are millions of people who do not have electricity. For India to have its energy needs met, they are going to have to be able to import more or they are going to have to come up with creative approaches.

The U.S.A. is far more dependent on foreign sources of energy. We need to have more exploration of oil and natural gas in our country. We ought to be using more clean coal technology since we are the Saudi Arabia of the world in coal for electricity and gasification and liquification of coal. We also need advanced nuclear, biofuels, solar—a diversity of fuels for our energy independence rather than being so dependent on foreign sources of energy from the Middle East and hostile dictators around the world.

India is in a similar situation. In fact, they are even more dependent than the United States. There are concerns they will have to have a pipeline from Iran for natural gas or for oil. We are trying to get Iran not to develop nuclear weapons. One of the reasons geopolitically why it is difficult to impose sanctions or any sort of efforts to get them to comply is there are other parts of the world that are so dependent on Iran for natural gas or for oil.

In a sense, the energy independence and energy security concerns that we have in our country are also brought about for the people in India which are even more dependent on foreign sources of energy than we are. If India can have clean nuclear for electricity generation, that is going to obviously help the people of India. It will improve their air quality, clearly. As you all know, a barrel of oil, wherever it is produced, has the same price.

With the increasing economies of China and India and elsewhere around the world, for every bit of oil that is produced, the whole global market is competing for that barrel of oil. To the extent that India's demands can be somewhat ameliorated as well as ours in coal liquification or biofuels or other renewable approaches, it is going to help our energy independence in this insofar as India is concerned.

Beyond energy and jobs, we have grave threats facing the United States and also our friends and allies insofar as security. We need to build new alliances, and we need to strengthen existing alliances as well.

With that in mind, I think we ought to be looking further into the 21st century to determine what U.S. policy will be in Asia. What should it be? Where can we reasonably expect support to come from, whether in Asia or the Western Pacific?

Presently, some of the key allies that share our values are South Korea, Japan, Singapore, the Philippines, and Australia. They are key leaders with us. Further positive concerted efforts need to be made with Pakistan and Indonesia. India has a key role in all of this. I think India is absolutely essential for our freedom and shared values but also our freedom advancement in innovation and our security.

As I mentioned, I was in India last fall. This was a key issue on the minds of Prime Minister Singh and other government leaders. India is a country with tremendous potential, amazing values, but also a lot of hardship, hard breaks, and poverty in that country. They need reliable energy. They are working in education. In fact, we can learn a lot from India insofar as education is concerned as young people in middle school are focused on high school exams to get into the India institutes of technology. We need to get more Americans from all backgrounds interested in engineering and science as India has done.

India is also so important to security—a country which will soon have

well over 1.2 billion people, not only the world's largest democracy but the world's largest country in the next few years.

The challenges that face India's future development are making progress, but they are tremendous challenges. So while India is now a global economic power, it is going to be increasingly an economic power in the future. It is going to be a much more important voice in Asia as well.

So it is in the interest of the United States to engage India, to help it develop safe, clean, and reliable energy, and also further our existing ties with its leaders in government, especially the people of India who appreciate the United States. Of course, there is a great deal of trade between the United States and India. Many of the H-1B visa applicants are from India which are very important for Virginia's economy and for the economy of the United States.

I also believe that we need to—I urge my colleagues to—examine this in its totality. It is imperative that we pass this legislation and begin finalizing this agreement that was reached by the elected leaders of the United States and India. It is in our security interests. It is in our economic interests. It strengthens the alliance which will be vital for years ahead.

I believe very strongly that this United States-India pact will be a marriage which will benefit all of us, not just now but for generations to come.

I thank my colleagues. I urge most respectfully the passage of the United States-India Peaceful Atomic Energy Cooperation Act with no killer amendments and let's allow this marriage between the United States and India blossom for our security, for our jobs, and our best interests through the years to come.

I thank Chairman LUGAR again for his outstanding and remarkable wisdom and insight shepherding this measure through. I hope by the end of the day this will pass, and that this marriage will continue to bear fruit for generations to come.

I yield the floor.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Virginia for his very generous comments about my leadership and the work of the committee. But I want to say that I appreciated very much the Senator's diligent and thoughtful work on the committee. He will be missed. He has been a great leader in our efforts and has participated materially in the formation of the legislation he talked about today. I deeply appreciate the strength of his statement and his very thoughtful comments.

I understand the distinguished Senator from Kansas wishes to make a statement.

I yield the floor.

The PRESIDING OFFICER (Mr. ISAKSON). The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleague from Indiana,

Chairman of the Foreign Relations Committee. He has done an outstanding job. He has been a leader and a foreign policy voice on Capitol Hill. His leadership is measured, and he is very knowledgeable and quite good. I appreciate his wisdom, counsel, and leadership—and his leadership on this bill as well.

I recognize my colleague from Virginia who has done an outstanding job for many years in many capacities on foreign relations. I know that he knows the issues on the United States-India relationship. Many people I have worked with on India have worked with the Senator from Virginia. I deeply appreciated his work, knowledge, interest, and passion on pushing these issues. It takes people such as that to build relationships. You have to always be pushing people together. I appreciate his willingness to do that.

I rise in support of this bill. I rise, as my colleague from Virginia has done, in support of the bill but without debilitating killer amendments associated with it.

I rise as someone who has chaired the South Asia subcommittee for a period of time and worked in building relationships with India.

I rise as the Senator who carried the initial bill to allow the administration to lift sanctions against India when it tested nuclear weapons during the Clinton administration. It was a big brawl of discussion we had at that point in time.

Let me take my colleagues back a little bit. That was the point in time when India was starting to shift away from its former focus on the Soviet Union, then Russia, and whether it was going to join the West and work with us. There was a big debate going on within Indian society as to whether they were going to pull along alongside the United States. It was a very heated debate, a very important discussion. It became the signature moment as to whether the United States would be a partner with India.

You will recall that for many years the United States and India had what was best described as a prickly relationship. There was not an easy, favorable one even though the fundamentals underneath seemed like they were something that would be very good. India is equal. It has the largest democracy and we the oldest. We are the two largest democracies in the world. It would seem to be that this would be a very easy and logical relationship. Yet they had gone into the Soviet sphere. We had built more of a relationship with China than with India even though the fundamentals under India were much better for us than they were with China. There has been this separation and division for some period of time.

India decided they needed to have a nuclear basis. They tested. Pakistan tested in response to that. We had a series of sanctions that immediately kicked in with that testing. Then our

entire relationship with India was viewed through the nuclear non-proliferation issue. We had all these other issues that we needed to discuss—economics, spread of terrorism, a series of issues, human rights items. Everything went through the non-proliferation portal. If you couldn't clear it through, we wouldn't be able to develop the rest.

Finally, we were able to provide the relationship, the administration, and the capacity to waive this series of sanctions. It was a difficult discussion and decision within the Congress. We were able to pass it through. Then let us get into a broader range—and the relationship flourished. It expanded enormously.

Now I think we are at another step. This is another one of those key junctures in the relationship as to whether this was going to be a true and budding and future-oriented relationship. That is whether we can enter into this agreement that we are discussing here today. This is being watched very carefully in India as being a key view as to what the United States is going to do in its ongoing relationship with India.

I urge passage and strong support in building the fundamentals and strengthening a United States-India relationship. This agreement is not about sacrificing the nonproliferation regime on the altar of strategic cooperation. I want to emphasize that point. I think as people look at it, the initial question they would come up with is, I am fine with the strategic relationship; I will not sacrifice the nonproliferation issue. It is not about sacrificing that. It is about recognizing the reality of India's 30-year nuclear program. Engaged in peaceful civilian—as the chairman has said many times—nuclear cooperation with the world's largest democracy, securing commitments from India to implement the IAEA standard and safeguard and affirming India's longstanding commitment to democracy and its constructive role in shaping the world in decades ahead.

There is an environmental angle on this as we look at India as being a key economy in growth. That growth is consuming much more energy. That energy is generally in the form of fossil fuels which release a lot more CO₂. If we are concerned about the release and the impact and the accumulation of CO₂ in the atmosphere, one of the key things we should do from an environmental perspective is to engage in this agreement on civilian nuclear power. That is where we will reduce the CO₂ loading into the atmosphere.

From another nonstrategic, non-proliferation angle, from an environmental angle, this is a very positive agreement, a key agreement we can have with one of the fastest growing economies in the world that will be releasing a lot more CO₂ in the atmosphere unless they use a great deal of nuclear capacity in building that energy system.

Bringing India to the nonproliferation regime and forging a strategic

partnership with the world's largest democracy makes America safer, as well. We have a common enemy in the war on terrorism around the world. India has been a key and strategic partner in their assistance in curbing the nuclear pursuits of Iran, a weaponized nuclear pursuit by Iran. We are getting help from India on that. We continue to work with Pakistan.

As a number have pointed out, either implicitly or explicitly, it is a balancing issue, a balance-of-power issue with China. I know everyone in this Senate thinks about that, even if it is not expressed often, but it is key that we build this balance of power in our balance with India in this region of the world as a democracy, as a country that is with us in the fight on terrorism.

India shares strategic interests; it also shares values. They have a commitment to democracy, with rules of law, transparency, a multireligious country. America and India, as I mentioned, are the world's two largest democracies, and India has had a functioning democracy for some period of time. Civilian nuclear cooperation is an important step in developing new and alternative energy sources.

Comparison with Iran and North Korea's nuclear programs are misleading. There are strict measures taken to ensure our cooperation will only be with India's civilian nuclear program. They have proven to be trustworthy. There is still reason to believe North Korea and Iran are clearly pursuing these for nuclear weapons and for purposes against us, very threatening to us and our interests. We need to look at the nature of the regimes. India is a peaceful, stable democracy versus authoritarian in Iran and North Korea.

Finally, this is just one of the key relationships at one of the key times. It is important we take the right steps during those points in time. I hope we have a very positive, robust debate and pass this bill by a very large margin, saying to the people of India and around the world: We are interested in partnering with you, we want to partner with you, we want to expand that partnership, and we see this as a key partnership for our future, for your future, and for global stability.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Indiana.

Mr. LUGAR. I thank the Senator from Kansas for a very strong endorsement of this legislation.

I note in the Senate the distinguished Senator from Georgia who would like to participate. I look forward to hearing from him.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I rise in full support of the United States-Indian nuclear agreement. I wish to share the two distinct reasons for my support.

First and foremost is the distinguished chairman from Indiana, Sen-

ator LUGAR. There is not an individual in this Senate and I say probably not an individual in this country who has committed more of their life to preventing nuclear disaster and its proliferation. There is perhaps no one who has worked harder to see to it that the U.S. agreements, as they relate to the security of nuclear power and the interest of our country, have always been nothing but in the best interest of the United States of America.

As a Senator from Georgia, I am well aware that Senator LUGAR partnered for many years and still partners today with our Senator, Sam Nunn, in seeking to ensure nuclear proliferation does not take place anywhere in the world and that nuclear materials from existing nuclear nations never fall in the hands of those who would use them in an act of terrorism. I place my confidence first and foremost in the distinguished chairman from Indiana.

There is a second, equally compelling reason; that is, my visit to India in April of this year, just shortly after the President announced the civilian nuclear deal with India. Quite frankly, my initial reaction before I went to India was one of significant concern. I think any time any of us look into nuclear agreements and the sharing of nuclear technology, we should have significant concern. However, I went to India and learned a number of things firsthand that I did not know. I share them with this Senate today because I believe they are important in whether we grant this agreement.

First, I learned quickly that in the 30-year history of involvement in the development of nuclear energy, India has never had a single deviation from its stated original purpose, which was civilian use, and in terms of military, only for minimal deterrence. They have clearly said from the beginning they would never be a first-strike nation, and they have always said that our motivation from a defensive mechanism is minimal deterrence. A 30-year consistent policy like that in any nation is good enough evidence for me in terms of the heart and the intent of that country.

Second, India is a democracy of 1.3 billion people in round numbers in a part of the world of significant importance to the United States of America. They have demonstrated in their cooperation with us in the global war on terror their interest only in peaceful operations of all nations and never in nuclear energy or technology falling into the hands of those who would use it in a devious way.

As the distinguished Senator from Virginia has said, India is a blossoming nation economically, but it suffers dramatically from the coal it has to burn and from the lack of efficient energy sources it now has. This civilian nuclear agreement allows them the opportunity to expand nuclear energy for the generation of electricity and to reduce the pollution in the atmosphere, which is not just India's atmosphere but is the world's atmosphere.

The distinguished chairman from Indiana has worked long and hard on this agreement. I am in full support of this agreement in its draft form and its presented form today. I hope the Members of the Senate will endorse and ratify without debilitating amendments. I have confidence in the chairman and his work. I have confidence in my visit to the people of India and Prime Minister Singh that they will continue to be what they have been: a burgeoning democracy and a great partner with the United States of America.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Georgia for visiting India, for his personal testimony on this issue, for strong support of the treaty, and for his very thoughtful personal comments.

I note the presence of the very distinguished leader in the Senate in fostering and strengthening India-United States relationships, the distinguished Senator from Texas.

Mr. CORNYN. Mr. President, I rise in strong support of the United States-India Peaceful Atomic Energy Cooperation Act. I particularly express my gratitude to the chairman of the Foreign Relations Committee, Chairman LUGAR, for his outstanding work on this bipartisan piece of legislation that advances our strategic relationship with India while also bringing India into the mainstream of international nonproliferation efforts.

I am delighted to be the cochair, along with Senator HILLARY CLINTON, of the United States-India caucus in the Senate, actually something we resurrected just a couple short years ago that had fallen by the wayside.

After my own visit to India and in consultation with a number of Indian-American constituents who live in Texas—about 200,000 live in my State alone—I became absolutely convinced that a closer relationship with the great nation of India and its people was essential to our security interests and essential to our economic interests.

As our colleagues know and as has been mentioned by a number of our Members, Prime Minister Singh visited Washington last summer and President Bush paid a visit to India this spring. These events mark a critical milestone in our improving relationship. Passage of this legislation will mark another significant step and I daresay cement what is a very important relationship to both nations.

President Bush made a fundamental foreign policy objective to move the United States-India relationship to a new level. As Secretary Rice has said, our relationship with India is one of the most important partnerships the United States can have in the 21st century.

As has been often noted, India is the world's largest democracy, while we are the world's oldest democracy, and

our two great nations share so many common values and common beliefs. It is only appropriate that the United States and India become true strategic partners as we move into the 21st century. Fortunately, the days of the Cold War, when India was more aligned with the Soviet Union than with the United States, are in the long past. The United States and India share a common vision for our future. It is a peaceful vision where we battle terrorism together, the proliferation of weapons of mass destruction, HIV/AIDS, and a host of other challenges that face our world today.

While it is true that the agreement on Civil Nuclear Cooperation is a significant departure from previous U.S. policy, I strongly believe this legislation represents a positive step as we grow our strategic relationship.

For more than 30 years, the United States and India have disagreed over India's decision not to sign the Nuclear Non-Proliferation Treaty. As such, the United States has not cooperated with the Nation of India on any civilian nuclear technology to speak of. In short, we have been at a stalemate which has neither served our nonproliferation goals, nor helped India's vast needs for energy resources. Fortunately, this carefully crafted legislation will allow us to move forward in a responsible manner. The agreement, in fact, enhances our nonproliferation efforts.

It is correct to say that India is not a signatory to the nonproliferation treaty. They have decided for their own national security reasons that they will not become a party to the treaty, and no amount of international pressure is likely to change that conclusion. This is the reality we face, and the status quo for another 30 years is simply not acceptable. Recognizing this reality, we must ask ourselves, What can we do to promote nonproliferation efforts with India and bring them into the international nonproliferation regime? This legislation provides that answer.

Despite not signing the nonproliferation treaty, India, for the record, has an excellent nonproliferation record. They understand, perhaps as well as anyone, the danger of the proliferation of weapons of mass destruction. This is why India has agreed to adhere to key international nonproliferation efforts on top of their own stringent export control regime. This is a significant step forward which has been welcomed by the International Atomic Energy Agency Director General Mohamed ElBaradei, who understands India will not come into the nonproliferation treaty by traditional means but can be accommodated through this route.

I conclude by noting that the United States is fortunate, indeed, to have many Indian Americans who have helped bring our two nations closer together. As I have noted, many of them live in my State, as they do around this great country, contributing to our brainpower, to our economy. Frankly,

this community is one of the hardest working, most accomplished communities in our Nation today. There are about 200,000 of them living in Texas, and nearly 80,000 Indian students are studying at our Nation's colleges and universities. Their contributions to our Nation and the United States-India relationship have been remarkably positive.

I encourage my colleagues to support this legislation, to advance our strategic relationship with India while also bringing India into the mainstream of international nonproliferation efforts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the distinguished Senator for his leadership. His action with the distinguished Senator from New York, Mrs. CLINTON, is certainly timely for these important visits to occur and these negotiations. I think they have restored significance in our relationship. I thank the Senator for coming to the Senate and offering strong support for the treaty.

Mr. President, I note the presence of another distinguished member of the Senate Foreign Relations Committee, the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I rise today to offer my support for S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act, of which I am a cosponsor. First, I congratulate Senators LUGAR and BIDEN for their excellent bipartisan effort to produce a quality piece of legislation. We can all be very proud of this product.

I have long believed the United States and India should expand its excellent friendship and embark upon a deeper, more strategic relationship. We now have that opportunity, and I urge my fellow Members of the Senate to pass S. 3709, a bill that will enable us to transform our relationship with India and initiate a solid partnership with great security, economic, and environmental returns for U.S. national interests.

As President Bush said when he met with Indian Prime Minister Manmohan Singh in New Delhi last spring:

India in the 21st century is a natural partner of the United States because we are brothers in the cause of human liberty.

By expanding civil nuclear cooperation with India, the United States has an opportunity to bring India into an arms control regime that will guarantee greater oversight and inspection rights and which will allow us to make India's preexisting nuclear program safer and more transparent. At a time when we are facing many other nuclear power challenges, we should welcome this as a positive step in the world of nonproliferation.

It is not just the United States that supports civil nuclear cooperation with India. I was in Vienna in May, where I met with the International Atomic Energy Agency. During our meetings—we

were talking primarily about Iran and what they were doing in terms of Iran's violation of the nuclear nonproliferation agreement. We also talked about India and how they felt about the proposal that was being entered into between the United States and India. And I was told, at that time, that India has been a more active and responsible partner, in terms of their cooperation with the IAEA, than many of the signatories to the nuclear nonproliferation agreement.

As was just pointed out by the Senator from Texas, later on Director General Mohamed ElBaradei called the idea that is contained in this agreement "a milestone" and "timely for ongoing efforts to consolidate the nonproliferation regime, combat nuclear terrorism and strengthen nuclear safety."

Furthermore, this agreement will allow us to form a critical strategic relationship with India. And from a point of view, it is long overdue. The geostrategic facts are that China and India are two rising powers in the industrialized world. As China expands its economic power and military strength, U.S. nuclear cooperation with India can help to even the international keel.

I am also referring to the fact that China, could pose a threat to U.S. national security in the future. We are working very carefully to make sure that does not happen, but it is something we should think about. But I am also thinking about the fact that India and China also have a good relationship. So the fact that we are entering into a new relationship with India, I think, also would be well received by the Chinese and other Asian countries and helpful to alleviating any tensions that exist.

For the past 30 years, we let differences in our domestic policies and our international intentions keep us from working together. But India is a unique democracy, a new shining city upon a hill, and we need this more than ever before. We need models such as this, where people of different faiths and ethnicities live together and where the Government is open and accountable for its actions. It is the largest democracy that we have in the world today.

Following the end of the Cold War, new economic opportunities have created room for cooperation between the United States and India in agriculture, health care, commerce, defense, technology, and education. It is amazing to me the number of businesses I have in Ohio that have joint ventures in India and Indian investment in the State of Ohio.

In the aftermath of the September 11 attacks, India has been a leader in fighting terrorism and rooting out extremists from its society. It has a long record of responsible behavior on nonproliferation matters, and it is time we embrace India as part of that nonproliferation community.

I strongly encourage the Senate to pass S. 3907 and take the next step in bolstering our relationship with India. A democratic, economically sound, internationally integrated India will serve as a ballast in a region experiencing rapid, sweeping change.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. May I have recognition?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I see the floor manager and the matter we have before us is of great importance and consequence. I know we have a variety of different amendments that are being considered and are being talked about, even as we are here now. I do not mean to interfere with the flow of this debate and reaching a timely conclusion of it, but I want to address the Senate for a few moments on what I consider to be sort of the important agenda for our committee, our HELP Committee, in this next session. I will cooperate, obviously, with the floor manager and ask that my remarks be printed in an appropriate place in the RECORD. And I will speak for just a few moments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. So others who want to continue the debate will have the opportunity to do so. And as one who has been a floor manager, I understand his desire to have focus and attention on the underlying matters. But I appreciate the courtesy and the understanding of the manager letting me talk briefly this afternoon.

(The remarks of Mr. KENNEDY are printed in today's RECORD under "Morning Business.")

AMENDMENT NO. 5173

Mr. LUGAR. Mr. President, I send an amendment to the desk that has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. HARKIN, proposes an amendment numbered 5173.

The amendment is as follows:

(Purpose: To make the waiver authority of the President contingent upon a determination that India is fully and actively participating in United States and international efforts to dissuade, sanction, and contain Iran for its nuclear program consistent with United Nations Security Council resolutions)

On page 8, beginning on line 8, strike "Group; and" and all that follows through "Nuclear" on line 9 and insert the following: Group;

(8) India is fully and actively participating in United States and international efforts to dissuade, sanction, and contain Iran for its nuclear program consistent with United Nations Security Council resolutions; and

(9) the Nuclear

Mr. HARKIN. Mr. President, I thank the managers of this bill, Chairman LUGAR and Senator BIDEN, for accept-

ing my amendment. I thank my colleagues.

My amendment is very simple and straightforward. It requires the President to determine that India was fully and actively participating in U.S. and international efforts to dissuade, sanction, and contain Iran's nuclear program consistent with United Nations Security Council Resolutions.

As my colleagues know, Iran is one of, if not the most, urgent nuclear nonproliferation challenges the world faces today.

For two decades Iran secretly built up its nuclear capabilities in violation of the safeguards commitments it made with the International Atomic Energy Agency, IAEA. To date, Iran has completed most of the construction of a massive uranium-enrichment facility at Natanz, opened a heavy-water production plant at Arak and began construction of a 40-megawatt reactor there. It also began construction on a fuel manufacturing plant at Isfahan; tested centrifuges with uranium, hexafluoride, produced their first samples of low-enriched uranium; and nearly completed construction of their first nuclear power reactor at Bushehr, set to open in 2007.

Iran says these programs are for peaceful purposes, but experts agree and the Bush administration believes, that Iran is on its way to acquiring the capability to produce large quantities of bomb grade nuclear material. Additionally, Iran has not fully answered numerous questions from the IAEA about activities that may be related to a weapons program. These activities are very concerning.

Earlier this year, the IAEA Board of Governors found Iran to be in violation of its safeguards commitments and reported Iran's file to the U.N. Security Council. The Security Council has demanded that Iran suspend its uranium enrichment program and construction of a heavy-water production reactor. These technologies can be used to make bomb-grade nuclear material.

However, Iran continues to stiff-arm the IAEA's investigation of its program. This week Iran again thumbed its nose at the international community boasting that the world would have to "live with a nuclear Iran." A new report this week from the IAEA says the agency found new traces of plutonium and enriched uranium at a nuclear research facility in Tehran.

As we are here debating this bill, U.S. diplomats are engaged with our partners in the U.N. Security Council on this very important issue. They are working to build support for a new resolution that would mandate targeted sanctions on Iran to help persuade its leadership to change course and halt its uranium enrichment work.

This diplomatic course of action is appropriate at this stage, and I fully support it. To succeed, any targeted sanctions policy must not only have the active support of Security Council member states, but also the cooperation of other member states of the

international community. Targeted sanctions against Iran will not work unless they are fully and actively supported by states close to Iran and with ties to Iran, such as India. They will not work, I would add, without effective diplomatic engagement with Iran.

This is a time when we need to have the support of every country as the United States works with our allies to contain and constrain Iran's troubling nuclear program.

Now my colleagues may be wondering what this has to do with India.

India has a robust relationship with Iran. India actively engages in military-to-military cooperation with Iran and the two countries have a significant trade relationship. India plans to build a gas pipeline from Iran through Pakistan. India's leaders see Iran as a diplomatic partner on many issues. In fact, Iran's Foreign Minister will be visiting New Delhi today.

Given India's proximity to Iran, none of this is surprising, but it means that India has a particular responsibility to help contain Iran's nuclear and missile capabilities and support possible U.N. Security Council sanctions against Iran.

Obviously, India, like most other states, does not support a nuclear weapons option for Iran.

However, Indian views of the threat posed by the Iran nuclear program and its perspective on Iran's so-called "right" to peaceful nuclear technology differ significantly from U.S. views. Unfortunately, some of India's policies appear to embolden Iran's leaders to press forward with their ambitious nuclear plans.

As we move forward in our effort with the international community to deal, contain, and if necessary sanction Iran for its defiance of international demands to halt its sensitive nuclear activities, we will need greater support from all states, including India, in this effort.

Over a year ago, on September 24, 2005, India voted with the United States and 20 other states on the IAEA resolution which found Iran in compliance with its safeguards agreement. But the resolution did not refer the matter immediately to the Security Council and according to a recent report produced by the Congressional Research Service, India was one of a handful of countries seeking to avoid such a referral.

Disturbingly, India's official explanation of its vote highlights India's differences with the United States on how to deal with Iran's nuclear transgressions. It stated that:

In our Explanation of Vote (this is the Indian government), we have clearly expressed our opposition to Iran being declared as noncompliant with its safeguards agreements. Nor do we agree that the current situation could constitute a threat to international peace and security. Nevertheless, the resolution does not refer the matter to the Security Council and has agreed

that outstanding issues be dealt with under the aegis of the IAEA itself. This is in line with our position and therefore, we have extended our support.

India again voted with the United States on February 4, 2006, when the IAEA Board of Governors voted to refer Iran's noncompliance to the U.N. Security Council. This was welcomed at the time. Yet the Indian Ministry of External Affairs responded to questions about its vote by noting that:

"While there will be a report to the Security Council, the Iran nuclear issue remains within the purview of the IAEA. It has been our consistent position that confrontation should be avoided and any outstanding issue ought to be resolved through dialogue. . . . Our vote in favour of the Resolution should not be interpreted as in any way detracting from the traditionally close and friendly relations we enjoy with Iran."

By keeping the issue under the purview of the IAEA Iran would not be subject to sanctions. The IAEA does not have that capability, the Security Council does.

In April 2006, the U.N. Security Council issued a statement calling for an immediate suspension of all Iranian enrichment activities. Iran responded by announcing that it had produced a small quantity of low-enriched uranium using a test assembly of centrifuges and noted it planned to expand the facility's production capacity.

What was India's response? On May 30, India signed onto a statement by the Non-Aligned Movement, which said that concerns surrounding Iran's nuclear program should be resolved at the International Atomic Energy Agency Board of Governors and not the U.N. Security Council, again seeking to avoid sanctions, contrary to what U.S. diplomats and others were urging at that time.

In July, the U.N. Security Council passed Resolution 1696, which gave Tehran until August 31 to suspend its uranium enrichment program and required Tehran to fully cooperate with the International Atomic Energy Agency's, IAEA, investigation of its nuclear programs.

Again what was India's response? Apparently, in an attempt to patch up relations with Tehran over its earlier votes at the IAEA Board of Governors, India added its name to the September 2006 joint statement on Iran's nuclear program released by the Non-Aligned Movement at its meeting in Havana. In this statement, India called nuclear research and development a "basic inalienable right" of Iran's, and said that nuclear "choices and decisions" of different countries "must be respected."

Newspaper headlines in Iran trumpeted the news. The Iran Times headline on September 18 read: "118 Countries Back Iran's Nuclear Program." Iran's President met with India's Prime Minister in Havana to discuss how to deepen Indo-Iranian ties.

Since then, talks between Iran and the EU to halt the Iranian nuclear pro-

gram have broken down, and in October, Iran took additional steps to improve its enrichment capability and is now seeking IAEA nuclear safety assistance on its Arak heavy-water reactor. U.S. diplomats are working hard now to lobby fellow members of the IAEA Board of Governors to reject this request. We need India's active support when that happens.

In a recent report, the Congressional Research Service detailed some concerns about India's proliferation record with respect to Iran.

The U.S. Government, as a result of the Iran-Syria Nonproliferation Act, has sanctioned Indian companies for transferring WMD technologies and materials to Iran and other countries.

On August 4, the Bush administration publicly announced in the Federal Register sanctions on two Indian entities for transferring chemicals that can be used to produce missile propellant to Iran. The sanctions determination had been made July 25, a day before the House passed its version of the India bill.

For its part, India contended the sanctions were unwarranted. A Ministry of External Affairs spokesperson asserted on August 7th the transfers were "not in violation of our regulations or our international obligations."

This is deeply disturbing. What this means is that India's current export control laws are inadequate and do not meet the same high standards of U.S. export laws.

As we move forward in our effort with the international community to deal, contain, and if necessary, sanction Iran for its defiance of international demands to halt its sensitive nuclear activities, we will need greater support from a regional partner. We will need India to be more effective and diligent in preventing the proliferation of technologies, goods, and material that might be used by Iran to produce weapons of mass destruction or the means to deliver them.

I think that my colleagues would agree that the ties between India and Iran are troubling. That is why I believe we must—through my amendment—require the President to provide a determination that India is actively supporting efforts to contain Iran's nuclear program before he can waive existing restrictions on civil nuclear commerce with India.

I want to be clear—my amendment is not "anti-India." My amendment is a positive and vital step in safeguarding our own national security interests.

There are some in this body who have argued that this legislation, and the possible agreement for nuclear cooperation, will enhance our strategic relationship and improve India's nonproliferation record. Others have warned that this will damage the vital effort to reduce nuclear weapons dangers in South Asia and elsewhere if we don't make adjustments to strengthen the nonproliferation requirements in the package.

Whatever our differences may be regarding other aspects of this proposal, one issue that I hope we can agree on is the need to ensure we have India's full and active cooperation and support in the effort to prevent Iran or other states from acquiring the capability to produce bomb material.

As the Senate considers reversing 36 years of nuclear proliferation restrictions, it is important that we ensure that India is a true strategic partner in the effort to prevent Iran from acquiring nuclear weapons.

Again, I appreciate the support of my colleagues in accepting my amendment.

Mr. LUGAR. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 5173.

The amendment (No. 5173) was agreed to.

Mr. LUGAR. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. I note the distinguished Senator from New Mexico is present.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 5174

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 5174.

Mr. BINGAMAN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the waiver authority of the President)

On page 6, after line 21, add the following:

(c) OPERATION OF WAIVERS.—Notwithstanding any waiver under subsection (a)—

(1) no nuclear equipment or sensitive nuclear technology may be exported to India unless the President has determined, and has submitted to the appropriate congressional committees a report stating, that both India and the United States are taking specific steps to conclude a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices; and

(2) no nuclear materials may be exported to India unless the President has determined, and has submitted to the appropriate congressional committees a report stating, that India has stopped producing fissile materials for weapons pursuant to a unilateral moratorium or multilateral agreement.

Mr. BINGAMAN. Mr. President, this amendment would establish a link between the export of nuclear fuel and equipment to India under the United States-India nuclear agreement and India's halting of the production of nuclear weapons material. More specifi-

cally, my amendment provides two separate tests, one for nuclear equipment and technology, and another for nuclear material.

As to the nuclear equipment and technology, my amendment would require the President to certify that both India and the United States are taking specific steps to conclude a verifiable fissile material cutoff treaty before the United States exports any nuclear equipment or technology to India. As to nuclear fuel, my amendment would require the President to certify that India has stopped producing fissile material for weapons, either unilaterally or as part of a multilateral agreement, again, before the United States exports nuclear material to India.

The purpose of the amendment is not to kill the bill or the agreement with India but, as I see it, to strengthen that agreement. It would allow nuclear trade with India to proceed but in a way that will be consistent with our nuclear nonproliferation goals and our security interests.

It imposes no unreasonable or unrealistic conditions on nuclear trade with India. It simply requires the President to determine that India has followed through on its stated agreement to work toward a fissile material cutoff treaty. Let me explain why I believe this amendment is necessary.

In 1974, India tested a nuclear weapon it built using technology that we had provided to it for peaceful purposes. The title of the pending bill is United States-India Peaceful Atomic Energy Cooperation Act. So in 1974, India tested a nuclear weapon built using technology that we had given it for peaceful purposes. We responded then by strengthening our nuclear export laws in 1978 to ensure that that could not happen again. In 1980, we cut off nuclear cooperation with India, after India failed to meet the terms of the new law.

The bill before us would make it possible to resume nuclear cooperation with India by exempting India from certain requirements that we added to our nuclear export laws in 1978.

Proponents of the bill offer some strong arguments for going ahead. They say that we need to resume nuclear cooperation in order to cultivate closer ties with India. They say it is in our best interest to help India expand its civilian nuclear power program so that India might meet its growing energy needs with clean, environmentally friendly sources of power. They say it will help to bring India within the "nonproliferation mainstream." I don't quarrel with any of those arguments or with the goal of the legislation. I agree that our past policies to pressure India on nuclear nonproliferation have not worked. Compared to several of its neighbors, India has a relatively good nonproliferation record, and by improving cooperation with India, we may be able to make India a useful ally in our efforts to halt the spread of nuclear weapons in the Middle East and in Asia.

My quarrel is not with the goal of reopening nuclear cooperation with India but in the details of the bill and in the terms on which we propose to resume that cooperation.

Under current law, in order for the United States to resume nuclear trade with India, our two nations must enter into an agreement for cooperation under section 123 of the Atomic Energy Act. Section 123 of the Atomic Energy Act requires the agreement to meet eight specific conditions. One of those conditions is that India must sign an agreement with the International Atomic Energy Agency to safeguard all nuclear material under its jurisdiction. India has consistently and steadfastly refused to agree to these so-called full-scope safeguards.

Even if we were able to enter into an agreement for cooperation with India, the Nuclear Regulatory Commission would then have to license the export of specific nuclear material and facilities to India under the provisions of section 126 of that same Atomic Energy Act. And in order to license an export under those provisions, the Nuclear Regulatory Commission would first have to find that the statutory export licensing criteria of section 127 and 128 of the Atomic Energy Act are met. Among other things, section 128 requires the Commission to find that the full-scope IAEA safeguards will be maintained on all of India's nuclear activities.

Once again, though, of course, India has refused to agree to those full-scope safeguards. Even if India were to accept full-scope safeguards, there is the third problem.

Section 129 of the Atomic Energy Act prohibits the export of nuclear materials or equipment or sensitive nuclear technology to any nonnuclear weapons state that has detonated a nuclear explosive device, violated or abrogated IAEA safeguards, or engaged in activities directed toward making a nuclear explosive device. Even section 129—and since India tested a nuclear explosive device in 1974 and five times since then in 1998, it has clearly run afoul of this provision.

The Atomic Energy Act provides a way around all of these obstacles. It says that the President can waive the full-scope safeguard requirement and can enter into an agreement for cooperation, as he is here proposing to do, without full-scope safeguards if he determines that insistence on full-scope safeguards:

Would be seriously prejudicial to the achievement of the United States nonproliferation objectives or otherwise jeopardize the common defense and security.

Similarly, the act allows the President to authorize exports without full-scope safeguards, and in spite of India's detonation of a nuclear explosive device, if the President:

Determines that cessation of such exports would be seriously prejudicial to the achievement of the United States nonproliferation objectives or otherwise jeopardize the common defense and security.

President Carter used this authority in 1980 to export nuclear fuel to India. But the current administration has apparently concluded that President Bush cannot say that withholding nuclear exports from India would seriously prejudice our nonproliferation objectives or jeopardize our security.

So instead of relying on the existing waiver authority that is in the law, the administration has requested and the bill provides—the bill before us would provide a specific statutory waiver for India. This is a waiver from the full-scope safeguard requirements of sections 126, 128, and the nuclear weapons prohibition contained in section 129. So instead of applying full-scope safeguards to all peaceful nuclear activities in India, the bill only asks that India give the International Atomic Energy Agency and the United States a:

Credible plan to separate its civil nuclear facilities, materials, and programs from its military facilities, materials, and programs, and that it only apply the IAEA safeguards to those civilian activities.

Let me just put up a chart up here to make the point as to what I think the bill contains. This is an important distinction for all of us to understand.

India has been called upon in this agreement to separate what they are going to open to safeguards from the portion of their nuclear program they are going to keep separate from any kind of a full-scope safeguard. So there are 14 power reactors and one fuel reprocessing plant they have identified as being subject to safeguards under this agreement. That is the so-called civilian side of what they are doing.

Then there is the nonsafeguarded area, and that, according to the Indians—and, of course, they are the ones who make this judgment and have under this agreement we are now considering, they have determined that there are eight power reactors for which they are not going to provide safeguards: their Fast Breeder program, which they are not going to provide safeguards for, and of course their entire military program, which is made up of two plutonium reprocessing plants, two uranium enrichment plants, and two heavy water plutonium production reactors. So it is clear that there is a substantial amount of their nuclear program that they have determined they will not open to inspection by the IAEA and will not open to these requirements which are contained in our own law.

There are major problems with this approach. First is that the partial safeguards are not full-scope safeguards. India produced its separation plan in March. It offers to place some of its civilian power reactors, some of its fuel cycle facilities, some of its research facilities under safeguards, but it leaves still others of its civilian power reactors, its fuel cycle facilities, its research reactors, and its military plants unsafeguarded. Many of the facilities that raise the greatest proliferation

concerns, including the Fast Breeder Reactor program and its uranium enrichment plants and its spent fuel processing facilities, are placed beyond the reach of any international safeguards. India will be free to use these facilities to produce fissile material for nuclear weapons without any international inspection or control.

To make matters worse, by allowing India to buy civilian nuclear fuel on the international market, India will no longer have to choose between using its own limited uranium resources to supply its civilian power program or its weapons program. It will be able to buy nuclear fuel for its civilian power program and devote all its own uranium resources to its weapons program.

The other major problem with this approach is that it abandons the fundamental tenet of our nuclear nonproliferation policy; namely, that nations are required to renounce nuclear weapons in order to get our assistance. This simple bargain has been the cornerstone of our nonproliferation policy since President Eisenhower announced the Atoms For Peace program over a half a century ago. The bill before us abandons that policy. It offers U.S. assistance to India without any restraint or limitation on its existing weapons program. Making such an exception for India will, in my view, permanently weaken our nonproliferation policy and our credibility on this issue. Already there are other nations, including Pakistan, that have asked for similar treatment. We are signaling that there are no general rules that apply when it comes to nonproliferation; whether we will ship nuclear technology or nuclear fuel or materials to a country depends upon the circumstances of each case. That is what this agreement signals to the rest of the world. It is difficult to see how we can insist that China and Russia strictly enforce full-scope safeguards in their dealings with Iran and North Korea if we are not going to enforce full-scope safeguards in our dealings with other countries—India, in this case. That is not to say we should bar the door to further nuclear cooperation with India or vote down the bill. I think we should open up nuclear trade with India, but we should do it in a way that is in keeping with our broad nuclear nonproliferation policy.

I believe the bill before us, while seriously flawed as it now stands, can be fixed, can be salvaged, and that is the purpose of my amendment. The central issue, as I see it, is how to allow nuclear trade with India to proceed without aiding and abetting India's nuclear weapons program. India has dozens of nuclear weapons today. China has hundreds of nuclear weapons today. We do not want to see a race begin in Asia to see who can achieve the greatest capability in nuclear weapons. I believe the answer is to establish a link between our cooperation with India's civilian nuclear program and India stopping its production of nuclear materials for its weapons program.

What I am recommending is nothing more than what our former colleague, Senator Sam Nunn, suggested in the article which is on each Member's desk entitled "A Nuclear Pig In A Poke." It was an article in the Wall Street Journal on May 24, and I commend it to all of my colleagues for their consideration. Specifically, Senator Nunn in that article recommended that:

Congress require a two-stage process. First, before any export of nuclear reactors, components, or related technology are provided to India, the President should have to certify that both India and the United States are taking specific steps to lead a serious and expedited international effort to conclude a verifiable fissile material cutoff treatment.

Continuing with his statement:

Second, before any exports of nuclear reactor fuel or its components are provided to India, thereby freeing India to use its limited stocks to expand its nuclear weapons program, the President would be required to certify that India has stopped producing fissile materials for weapons, either as part of a voluntary moratorium or multilateral agreement.

That is precisely what the amendment does.

I have attached a letter to the opinion piece Senator Nunn wrote, a letter from Senator Nunn to me where he states that clearly the amendment I am offering today is trying to implement the recommendations he made in his earlier opinion piece. So this amendment is based squarely on Senator Nunn's proposal. It simply requires first that before nuclear equipment and technology can be exported, the President first should determine that both India and the United States are taking specific steps to conclude a fissile material cutoff treaty; second, that before any nuclear materials may be exported to India, the President must determine that India has stopped producing fissile materials for weapons.

Both the United States and India have already agreed to work toward a fissile materials cutoff treaty. The bill before us, in section 1055, already requires the President to determine that India is working with us toward such a treaty before he can use the waivers. All my amendment does is to require the President to determine and to report to Congress that specific steps are being taken before we export nuclear equipment and technology, and that India has, in fact, stopped producing weapons material before we export nuclear material to India. The amendment would simply implement Senator Nunn's recommendations.

As I indicated, there is a letter pointing out that this amendment would, in fact, accomplish that objective that is attached to the opinion piece.

Mr. President, I ask unanimous consent that Senator Nunn's May 24 op-ed in the Wall Street Journal and his letter to me dated September 28 of this year be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

(See exhibit 1).

Mr. BINGAMAN. Mr. President, the amendment I am proposing here is not a killer amendment. I know the traditional approach in the Senate is that any time an amendment is offered, it is characterized by its opponents as a killer amendment, so you could make the argument that anything we might change in the pending legislation would absolutely kill our prospects of getting anything done. But this amendment is not a killer amendment. As Senator Nunn has stated in his op-ed piece, it is not a killer amendment:

Unless you believe that India will continue its weapons-usable nuclear material production, and that U.S. and Indian pledges to work for a fissile material cutoff treaty are insincere, meaningless gestures.

If those pledges are sincere and meaningful, as I trust they are, then this amendment simply says they should be fulfilled before exports begin.

Adoption of my amendment will significantly strengthen the agreement with India. As Senator Nunn has said:

This two-stage approach would significantly strengthen the deal in a way that improves the protection of our core security interests, while ultimately allowing trade to proceed. By establishing a linkage between exports of nuclear material and the cessation of Indian production of nuclear weapons material, this amendment will maintain the integrity of an important U.S. security objective; that is, preventing the growth and spread of nuclear weapons-usable material around the globe.

Without this amendment I am offering, I fear the enactment of the bill pending before us would result in making the world a more dangerous place rather than a less dangerous place. This amendment will give us the advantages of the agreement but without the increased danger which all of us would like to see avoided.

Mr. LUGAR. Mr. President, I rise in opposition to the amendment offered by the Senator from New Mexico. This is a killer condition because it requires the President to make two determinations prior to the U.S.-India agreement being implemented that are at odds with the purpose of the pact.

First, under the Bingaman amendment a determination must be made that both India and the United States have taken specific steps to conclude a Fissile Material Cut-off Treaty, or FMCT, before the U.S. can export nuclear equipment and technology.

The amendment requires that a second determination be made that India has stopped the production of fissile material for weapons before the U.S. can export nuclear materials.

While I agree that an Indian commitment to abandon its nuclear weapons program would have been optimal, even in its absence this agreement serves U.S. national security interests. Members must consider whether this amendment and others like it advance U.S. national security. I believe that U.S. interests are served by greater IAEA oversight of India's nuclear program and I reject amendments that

make the perfect the enemy of the good. I support this agreement and oppose amendments, like this one, that would derail its implementation.

By linking American exports of nuclear equipment and technology to U.S. and Indian progress on a multilateral FMCT holds New Delhi to a different and higher standard than any other country we have nuclear trade with, higher standards for example than we require of Beijing. A successful FMCT will only be concluded and implemented when every nation with fissile material production capabilities agrees and abides by its commitment. I worry that this amendment may provide countries who oppose this bilateral agreement with a backdoor veto. In other words, if another nation stymies progress on a FMCT, will India and the U.S. be penalized?

I share the strong support of the Senator from New Mexico for an FMCT. But a successful FMCT negotiation will require the assent of all nations, in particular China. Unlike the U.S., the United Kingdom, France, and Russia, China is assumed to have ceased fissile material production but has not made a public statement confirming this as the others have.

The report that accompanies the Lugar-Biden legislation, S. 3709, highlights the potential trouble with these kind of linkages. The Conference on Disarmament, the host of talks on a FMCT, has been unable to agree on a work program, in part because some countries—notably China—have refused to approve the beginning of FMCT negotiations unless the Conference on Disarmament also approves discussions of other issues, such as nuclear disarmament and banning weapons in outer space. For its part India has long supported conclusion of an effectively verifiable FMCT. This position reflects India's concern regarding fissile material production by its nuclear-armed neighbors, and it would be unrealistic to expect a precipitous change in India's position. It would be difficult to determine that the U.S. and India have taken specific steps to conclude an FMCT if Chinese interference didn't permit the negotiations at the Conference on Disarmament to start.

In testimony before the Committee on Foreign Relations, former Secretary of Defense William Perry addressed the danger of conditioning passage of the U.S.-India agreement on FMCT-related issues. In fact, Bill Perry stated that there were many things by which we could condition nuclear trade with India on, including "India tak[ing] a leadership position in promoting an international cutoff in the production of fissile material." But Dr. Perry concluded:

I do not recommend that the Senate try to modify the agreement to include them. Instead, I recommend that the Senate task the Administration to vigorously pursue continuing diplomacy to facilitate these actions, and that should be as a follow-on to the agreement.

Secretary Perry's advice was good counsel and we adopted it in the Lugar-

Biden bill. In our opinion, S. 3709 strikes the right balance in conditioning nuclear trade with India in areas consistent with the July 18, 2005, Joint Statement. India reiterated its support for an FMCT in that statement and our bill applies pressure and requires continue monitoring of future Indian and U.S. administrations to ensure full implementation of the decision by India to support such a treaty.

Section 105(5) of the Lugar-Biden bill requires an annual determination that India continues its support for an FMCT and is not preventing adoption of a negotiating mandate that leaves the issue of verification to be decided in the negotiations. If India is working with the United States to conclude an FMCT or a similar treaty, that would justify a presidential determination under this provision.

We reinforce these requirements with report language that reads that:

the United States must now use the influence it has gained through efforts in both India and Pakistan, and with India in particular through its nuclear trade with that nation, to help them transition from nuclear build-ups to stability and arms reductions. This is nowhere more relevant than in the area of fissile material production.

In addition, this amendment requires the President to determine that India has ceased the production of fissile materials for nuclear weapons before the agreement can be implemented. India has long rejected calls for the cessation of fissile material production, pointing to rival nuclear weapons programs as justification.

India maintains that it cannot agree to a unilateral cap on fissile material production at this time. Pakistan continues to produce fissile material for weapons-related purposes, and China has not yet committed to a moratorium on such production. It is not in U.S. national security interests to threaten the significant nonproliferation gains afforded by this Initiative with India in order to seek a fissile material cap that India indicates it cannot agree to, absent a similar commitment by Pakistan and China.

As Secretary Rice testified on April 6, 2006, before the Committee on Foreign Relations:

India would never accept a unilateral freeze or cap on its nuclear arsenal. We raised this with the Indians, but the Indians said that its plans and policies must take into account regional realities. No one can credibly assert that India would accept what would amount to an arms control agreement that did not include other key countries, like China and Pakistan.

In addition, Under Secretary of State for Arms Control and International Security Policy, Bob Joseph, and Under Secretary of State for Political Affairs, Nicholas Burns, stated on March 29, 2006:

The curtailment of the production of fissile material for weapons was discussed as part of the Civil Nuclear Cooperation Initiative, but India maintained that it could not agree to a unilateral cap at this time. The U.S. has achieved an important objective by obtaining India's commitment to work toward the

conclusion of a multilateral Fissile Material Cutoff Treaty (FMCT). Moreover, we remain willing to explore other intermediate options that might also serve such an objective. We also continue to call on all states that produce fissile material for weapons purposes to observe a voluntary production moratorium, as the United States has done for many years.

Senator BIDEN and I took a number of steps to address concerns about continued Indian fissile material production but we sought to do so in a manner that did not threaten the efficacy of the U.S.-India Agreement. In section 103(1) of our bill we make it the policy of the United States "to achieve as quickly as possible a cessation of the production by India and Pakistan of fissile materials for nuclear weapons and other nuclear explosive devices."

Section 108(a)(1)(A) requires an annual reporting requirement on Indian implementation and compliance with "the nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India."

Other subsections within section 108 of our legislation require: (1) annual reports on "significant changes in the production by India of nuclear weapons or in the types or amounts of fissile materials produced"; (2) whether India "is in full compliance with the commitments and obligations contained in the [U.S.-India] agreements and other documents"; and (3) a requirement to identify and assess all compliance issues arising on India's commitments and obligations. These reporting requirements will ensure that Congress remains fully informed on developments related to the implementation of this agreement. As we all know, it is the prerogative of Congress to review these treaties and take action should we ever determine that Indian activities put the benefits of the agreement on U.S. national security interests in doubt.

In addition, the committee adopted an amendment offered by Senator CHAFFEE during markup of S. 3709 making it the policy of the United States that peaceful atomic cooperation and "exports of nuclear fuel to India should not contribute to, or in any way encourage, increases in the production by India of fissile material for non-civilian purposes."

The administration is in the midst of negotiations with India on a 123 Agreement, and New Delhi is also negotiating a new safeguards agreement with the IAEA. The Nuclear Suppliers Group has yet to make a decision to embrace the U.S.-India Agreement and approve its 45 member states to engage in nuclear trade with India. If we accede to conditions such as the one contained in the Bingaman amendment, conditions that India has already rejected, we will severely limit our ability to influence India's nuclear program.

Moreover, the IAEA's ability to monitor India's activities will be further circumscribed and we will return to a

time when India was a hindrance rather than a partner in international, multilateral nonproliferation and arms control efforts.

Senator BIDEN and I believe we have addressed this matter in a manner that does not threaten the viability of the agreement. The determinations I described above were carefully drafted to balance, and not upset, the ongoing negotiations in Vienna or those in the U.S. and India. We must not forget that Congress will have a chance to vote on the 123 Agreement. S. 3709 provides Congress with an up or down vote on this important agreement and fully protects Congress' role in the process and ensures congressional views will be taken into consideration.

In conclusion, the Bingaman amendment imposes an unacceptable precondition on civil nuclear cooperation with India. India will regard this as "moving the goalposts," an unacceptable renegotiation of the deal, and a bad-faith effort on our part.

As a consequence, this is a deal-killer that wrecks the balance that we sought between executive and legislative power, nonproliferation responsibilities, and the U.S.-India relationship. Killer conditions such as these forfeit the U.S. ability to influence Indian behavior. While I understand that this was not the intent of the Senator from New Mexico, in my view it is the practical effect.

In sum, the Lugar-Biden bill addresses the issues raised by this amendment without undercutting the agreement. Unfortunately, the Bingaman amendment is a killer amendment and I urge Senators to oppose it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I have two amendments to offer. I will be happy to offer and debate them in order and to work with the chairman on whatever arrangements he might wish for a vote on these amendments.

Mr. LUGAR. Let me respond to the Senator. I appreciate his willingness to offer the amendments in a timely fashion. We are in the process of debating one amendment, but I will ask unanimous consent it be temporarily laid aside so the Senator can offer his amendments to expedite this consideration.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

The Senator is recognized to present his first amendment.

AMENDMENT NO. 5178

Mr. DORGAN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 5178.

Mr. DORGAN. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To declare that it is the policy of the United States to continue to support implementation of United Nations Security Council Resolution 1172 (1998))

On page 5, beginning on line 15, strike "Treaty; and" and all that follows through "that exports" on line 16 and insert the following: "Treaty;

(9) to continue to support implementation of United Nations Security Council Resolution 1172 (1998); and

(10) that exports

Mr. DORGAN. Mr. President, this amendment is very simple and very short. Its brevity is contained in line 4 to line 6.

It is an amendment that says we will:

On page 5, beginning on line 15, strike "Treaty; and" and all that follows through "that exports" . . . and insert the following:

(9) to continue to support implementation of United Nations Security Council Resolution 1172.

Let me describe what this means and why I am offering it. In May of 1998, the United Nations Security Council unanimously passed Security Council Resolution No. 1172 after India and then Pakistan, detonated nuclear weapons. The Security Council unanimously passed a resolution.

The resolution I have in my hand, in part, says that the Security Council is gravely concerned at the challenge that the nuclear tests conducted by India and then Pakistan constitute to international efforts aimed at strengthening the global regime of nonproliferation of nuclear weapons and also gravely concerned at the danger to peace and stability in the region.

Continuing, it says that the resolution condemns the nuclear tests conducted by India on 11 and 13 May, 1998, and by Pakistan on 28 and 30 May, 1998, demands that India and Pakistan refrain from further nuclear tests, calls upon India and Pakistan immediately to stop their nuclear weapon development programs, to refrain from weaponization or from the deployment of nuclear weapons, to cease development of ballistic missiles capable of delivering nuclear weapons and any further production of fissile material for nuclear weapons; it says the Security Council recognizes that the tests conducted by India and Pakistan constitute a serious threat to global efforts toward nuclear nonproliferation and disarmament, urges India and Pakistan and all other states that have not yet done so to become parties to the Nuclear Non-Proliferation Treaty and to the Comprehensive Nuclear Test Ban Treaty without delay and without conditions.

That was the reaction of our country and of the United Nations in May of

1998, following the detonation of nuclear weapons by both India and Pakistan, a point in time in which the world was very concerned about those actions.

Our country then led a multinational effort to pass a resolution in the United Nations, Resolution 1172. That resolution, which passed unanimously and which has become a resolution that represents our policy and our support for these basic tenets, is at odds with the underlying legislation being considered by the Senate.

I offer a piece of legislation, an amendment, that says it is still U.S. policy to support the implementations of United Nations Security Council Resolution 1172.

How does this square with what is before the Senate?

Resolution 1172 demonstrated that our country, the United States, and the rest of the international community, agree there should be no further nuclear weapons testing in South Asia and there should be an end to dangerous nuclear arms competition and no additional nuclear weapons produced. That resolution is as relevant today as it was in 1998.

Both India and Pakistan have violated Resolution 1172. They continue to build nuclear weapons, they produce fissile material for weapons in both of those countries, they continue to develop new nuclear-capable missiles.

No one in this Chamber would like to see, in my judgment, India or Pakistan resume nuclear testing.

Now, the Bush administration wants to lift international restrictions on nuclear trade with India. It is as if the United Nations Security Council resolution doesn't exist, never happened, doesn't apply to our country, doesn't apply to India. What does that say to North Korea? What does that tell the country of Iran?

This past July, the United States convinced the Security Council of the United Nations to call upon Iran to fully cooperate with the IAEA and suspend its uranium enrichment program, stop work on a heavy water production. Iran has not complied and the U.S. working with other nation states on the Security Council to pass another resolution.

In October, the Security Council passed Resolution 1718, which condemns North Korea's nuclear test and demands that North Korea not conduct any further nuclear test or launch of a ballistic missile. It also calls on North Korea to abandon all nuclear weapons in existing nuclear programs in a complete, verifiable, and irreversible manner; also, to give up its ballistic missile program.

But these resolutions on Iran and North Korea will, in my judgment, mean far less if the United States does not reaffirm its commitment to Resolution 1172 with respect to India and Pakistan.

As the world watches our actions—and we have Ambassador Burns and

Secretary of State Condoleezza Rice rushing to India to negotiate these kinds of agreements that begin to untie and unravel decades of leadership by our country against the proliferation of nuclear weapons. As the world watches our actions, what will they learn from this discussion, from these actions by the Senate? Will they learn today that we remain committed to Resolution 1172 of the United Nations?

It would be, it seems to me, a huge step backward for the Senate to say that Resolution 1172, which was our policy, which passed unanimously in the United Nations, which called for the cessation of the production of additional nuclear weapons by both India and Pakistan, if we were to tell the world that somehow that is no longer our policy, that is no longer operative—at least it is not operative with respect to India and Pakistan.

As I said earlier, the burden falls to us to stop the spread of nuclear weapons. It is our responsibility. We are the major nuclear superpower in the world. We inherit the requirement to stop the spread of nuclear weapons, keep nuclear weapons out of the hands of terrorists, try to prevent a cataclysmic terror attack anywhere in the world and especially against the cities of our country by a terrorist group who has a nuclear weapon. It is our responsibility to do that.

What then embraces that responsibility? What kind of things should we be doing in the Senate? Should we be deciding in the Senate that one way to do that is to allow the production of additional nuclear weapons on this Earth? Of course not, that is absurd. Will the underlying bill that is before the Senate allow the production of additional nuclear weapons? Of course, it will. Everyone agrees with that. We all understand that. If that weren't the case, there would not be a requirement to keep eight of the nuclear reactors behind a curtain that will never be inspected. We understand what is going on.

I read this morning the statement from one of the top advisers in India that said they have a responsibility to move quickly and aggressively to continue to build their nuclear deterrent. That is exactly what is at work here. Has our country now decided it is not our responsibility to stop this? Have we decided to be the green light to allow others to build additional nuclear weapons? Is that the junction we have reached? Not with my vote.

I understand all the arguments about the geopolitics and about India and China and counterweights and all of these issues. None of it, in my judgment, justifies a decision by the United States of America to send a signal to the world that we believe it is all right for anybody to begin producing additional nuclear weapons.

Our role, our responsibility, is to find ways today, on Thursday, November 16, 2006 to shut down the production of additional nuclear weapons, put pressure

on those who want to build more nuclear weapons, to say to them it is not acceptable to us to have you building additional nuclear weapons.

Yes, that goes for India. It goes for Pakistan. It goes for China. It goes for all of those countries.

That ought to be our message. It ought to be unified. It ought not to be convoluted. It ought to be clear. Yet the underlying message with what is on the floor of the Senate—again, negotiated by Ambassador Burns and Secretary of State Condoleezza Rice, largely in secret; I read about it, by the way, in the Washington Post—the underlying message is we have decided to develop a relationship with India that is a counterweight to China in that region. One way to do that is to allow India to be able to purchase the things they need with which to produce additional nuclear power.

They have been prevented from doing that because they refused to sign the nonproliferation treaty. They refused to sign that treaty; therefore, they have had sanctions against them and resolutions at the United Nations enacted that have condemned the actions. And now, in one fell swoop, they are told: Never mind. It does not matter. We are friends, and that friendship transcends the sanctions that exist for those of you who have not signed the nonproliferation treaty.

I think this is a horrible mistake. Again, I do not question the motives of those who disagree with me. But we have made some very serious mistakes recently because some big thinkers made some big mistakes. This is a very big mistake. It is likely that the Senate will pass the underlying legislation today. I will regret that. But if it passes that legislation without reaffirming the basic support for Resolution 1172, this message today will have been a very destructive message to the rest of the world with respect to our country's leadership away from nuclear proliferation.

So, Mr. President, I would hope that we could have a vote on this resolution. I have a second resolution that I shall offer. But with that discussion of my resolution, I will yield the floor so my colleagues can respond to it.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

AMENDMENTS NOS. 5179 AND 5180

Mr. LUGAR. Mr. President, I send two amendments to the desk that have been cleared on both sides.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for Mr. BINGAMAN, proposes amendments numbered 5179 and 5180, en bloc.

The amendments are as follows:

AMENDMENT NO. 5179

(Purpose: To require as part of the implementation and compliance report an estimate of uranium use and an analysis of the production rate of nuclear explosive devices)

On page 18, beginning on line 7, strike "existing" and all that follows through "description" on line 9 and insert the following: existing agreements;

(6) an estimate of—

(A) the amount of uranium mined in India during the previous year;

(B) the amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and

(C) the rate of production in India of—

(i) fissile material for nuclear explosive devices; and

(ii) nuclear explosive devices;

(7) an analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices; and

(8) a detailed description

AMENDMENT NO. 5180

(Purpose: To establish a United States-India scientific cooperative threat reduction program)

At the end of title I, add the following:

SEC. 114. UNITED STATES-INDIA SCIENTIFIC CO-OPERATIVE THREAT REDUCTION PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary of Energy, acting through the Administrator of the National Nuclear Security Administration, shall establish a cooperative threat reduction program to pursue jointly with scientists from the United States and India a program to further common nonproliferation goals, including scientific research and development efforts related to nuclear nonproliferation, with an emphasis on nuclear safeguards (in this section referred to as the "program").

(b) **CONSULTATION.**—The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) **NATIONAL ACADEMIES RECOMMENDATIONS.**—

(1) **IN GENERAL.**—The Secretary of Energy shall enter into an agreement with the National Academies to develop recommendations for the implementation of the program.

(2) **RECOMMENDATIONS.**—The agreement entered into under paragraph (1) shall provide for the preparation by qualified individuals with relevant expertise and knowledge and the communication to the Secretary of Energy each fiscal year of—

(A) recommendations for research and related programs designed to overcome existing technological barriers to nuclear nonproliferation; and

(B) an assessment of whether activities and programs funded under this section are achieving the goals of the activities and programs.

(3) **PUBLIC AVAILABILITY.**—The recommendations and assessments prepared under this subsection shall be made publicly available.

(d) **CONSISTENCY WITH NUCLEAR NON-PROLIFERATION TREATY.**—All United States activities related to the program shall be consistent with United States obligations under the Nuclear Non-Proliferation Treaty.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.

Mr. LUGAR. I urge adoption of the amendments.

The PRESIDING OFFICER. Without objection, the amendments are adopted en bloc.

The amendments (Nos. 5179 and 5180) were agreed to.

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. I would mention, Mr. President, the author of the amendments is Senator BINGAMAN, and one of the amendments is also in conjunction with Senator DOMENICI.

AMENDMENT NO. 5178

Mr. President, I want to respond to the distinguished Senator from North Dakota briefly. I oppose his amendment. While the amendment would merely state that it is U.S. policy to continue to support implementation of the Security Council resolution that was passed in June 1998 in response to the nuclear weapons tests in South Asia—a resolution we voted for—I believe the amendment casts us back to a very different time, well before the miraculous changes in India's relations with the United States and with the world that occurred as a result of the July 2005 Joint Statement and India's decision to turn the corner on nonproliferation policy generally.

I do not believe this bill is the right place to address ourselves to the past. This bill is about the future. We have taken adequate account in the bill of the concerns the Senator's amendment would address. Section 1033 of the Lugar-Biden bill makes it the policy of the United States that:

India remains in full compliance with its non-proliferation, arms control, and disarmament agreements, obligations, and commitments.

Section 108(b) of our legislation requires annual reporting, including a detailed description of "United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, capping, and reducing their fissile material stockpiles, pending creation of a world-wide fissile material cut-off regime, including the institution of a Fissile Material Cut-Off treaty; the reactions of India and Pakistan to such efforts; and assistance that the United States is providing, or would be able to provide, to India and Pakistan" to promote such objectives.

In the context of this bill, I do not believe it is appropriate to return to the past in a way the Senator's amendment would, and I urge defeat of the amendment.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I rise to speak to the Dorgan amendment. I appreciate, respect, and share the sentiment and concern of the Senator from North Dakota who has been doggedly supportive of pushing nonproliferation and a nonproliferation regime. And if this were 1998 or 1999, I would support the Senator's amendment. But this is 2006, and a great deal has changed since India and Pakistan both exploded nuclear devices in 1998.

The Security Council resolution passed after those tests called for several things: one including for India and Pakistan to immediately stop their nuclear weapons programs and their ballistic missile programs. We wish they would have ceased their nuclear programs. They did not. We wish they had ceased their programs with regard to missiles. Well, they did not.

So the fact is, it is not realistic. We wish they would join the nuclear test ban treaty. But do we really think that is possible under this administration that is not supportive of a comprehensive nuclear test ban treaty?

In this legislation, and in the United States-India nuclear agreement, we are making clear that continued cooperation under this nuclear agreement and nuclear exports to India will cease if India, one, tests a nuclear device, terminates or materially violates its IAEA safeguards, materially violates its agreement with the United States, or engages in nuclear proliferation.

Further, the bill requires that India sign a safeguards agreement with the IAEA and negotiate an additional protocol. It also requires the President to certify that the safeguards agreement is in accordance with the IAEA standards, principles, and practices.

In sum, that is U.S. policy toward India and its nuclear program, and I do not see the purpose of revisiting the old history of 1998. We need to look forward, and that is what we are doing in this legislation. We are using this legislation and the agreement to build a new relationship with India on this issue, and also using it as a means to strengthen the bilateral relationship across the board. And in doing so, we have enshrined important nonproliferation principles into this legislation because we cannot turn back the history of 1998.

So at the appropriate time—and I think we are working now on a consent agreement—I would urge the defeat of the Dorgan amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, just a couple of—

Mr. DOMENICI. Mr. President, will the Senator yield just for a moment?

Mr. DORGAN. Yes.

Mr. DOMENICI. Mr. President, I ask the Senator, how long do you think it will take for you to discuss and dispose of your amendment?

Mr. DORGAN. Mr. President, it is my intention to respond briefly to a couple of comments that have been made in objection to my amendment, and then to offer my second amendment, per agreement with the chairman. That would probably take me about 10 minutes, and to speak in support of my second amendment.

Mr. DOMENICI. Mr. President, I thank the Senator, and I yield the floor.

Mr. DORGAN. Mr. President, I listened intently to my two colleagues

who apparently cannot find the ability to support this amendment. I do want to make a couple of observations. One of my colleagues said that India is in full compliance with its commitments. Well, yes, that is true. And the reason they are in full compliance with their commitments is they do not have the commitments we have. They have not signed the nonproliferation treaty. They do not have the commitments that we would expect of them. So are they in full compliance with the commitments that do not exist? I do not know. I mean, I guess. It is not much of an excuse for India, in my judgment. I don't understand that objection.

The discussion of "this agreement would cease if the following" omitted one key issue: "This agreement will cease if India continues to produce additional nuclear weapons." No, that was not included in this bill. Why? Because this agreement allows India to continue to produce additional nuclear weapons. That is at the root of this agreement; otherwise why would you have nuclear facilities put off limits behind a curtain, behind which India can produce additional nuclear bombs?

So this issue of that we have safeguards, and this agreement will cease if the following exists, does not include that this agreement will cease if India continues to produce additional nuclear weapons. Why doesn't it include that provision? Because all of us here know what is going to happen. What is going to happen is this agreement is going to pass, and our ally, a wonderful country, India, is going to be told by this country: It is all right if behind a curtain uninspected facilities continue to produce additional nuclear bombs. That is all right with us. It works fine with us. It is not all right with me. It does not work fine with me.

The past versus the future? I am glad we are not debating the Constitution. That is the past. Man, that is a couple hundred years past. What are the virtues of the Constitution? How about the virtues of the past, the efforts in the past at nonproliferation, the efforts in the past when we were serious about these issues? Really serious. And this country took it upon themselves to say: We are going to lead the way. We, by God, are going to lead the way because it is our burden. It is our responsibility.

We inherit that requirement. Yes, that is the past, and I am proud of that past. In fact, this morning I described part of that past, credited, I might say, to my colleague from Indiana and my former colleague from Georgia, and my colleague from Delaware. I hold in my hand a wing strut from a Soviet bomber that likely carried a nuclear weapon, which could have been dropped on an American city.

That wing strut came from an airplane that was not shot down. That airplane was sawed up by an agreement. That sawing of that Backfire bomber, whose wing strut I now hold, was paid for by American taxpayers. We de-

stroyed nuclear weapons, no, not by battle, not through firing our nuclear weapons. We destroyed them by saws and other methods of destruction, paid for by the American taxpayer.

We destroyed nuclear weapons. Four countries that possessed them are now free of nuclear weapons. We destroyed delivery systems, Backfire bombers, missiles. Yes, that is the past, a past I am enormously proud of, a past we need more of, a past we need to learn from.

The future? The future is a process here by which we say: Do you know what, India, you are a good country—and let me join in that description of the county of India. But we also say: We don't care so much anymore you didn't sign the nonproliferation treaty. We don't care that you violated Resolution 1172 of the United Nations. That is all OK. And, in fact, we are going to tell the suppliers of the world that can supply you with things you need to produce nuclear power go ahead and do that. The sanctions are off. We have decided that our position has changed. It used to be that we and the rest of the world would not allow you to purchase that because you would not sign the nonproliferation treaty. We have changed our minds. In fact, we are going to tell the suppliers to furnish that to you, and you can use it behind the curtain with some of your facilities to produce additional nuclear weapons. You can do it because there will be no inspections.

That, frankly, is the circumstance of this legislation. So we have disagreement. I regret that. But I feel very strongly. I know my colleagues feel strongly about their position on this issue. I would just say, I hope we will not decide today as a Senate to say that Security Council Resolution 1172 does not matter because it is old. It is timeless. It is not old. It is timeless in its position of what we should stand for as a country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will be very brief.

As I said, I really admire, respect, and observe the passion of my friend from North Dakota on this issue. But I think the comparisons are not particularly apt. The wing strut the Senator has was able to be held in his hand because two countries—the United States and the Soviet Union—concluded that it was in their mutual interest to cease and desist and/or significantly reduce the threat each posed to the other. And they were the only threats that existed. The only threat to the United States from a nuclear capability of an ICBM or a Backfire bomber resided in the Soviet Union.

Now, we tried. I was the author of—and, as a matter of fact, there was a South Dakota Senator named Pressler, along with JOHN GLENN, who early on put in legislation relating to sanctions for India.

India obviously violated those sanctions and did not comply with the U.N. resolution. But there is a reason for that—not a justification, a reason. They looked across their borders north and west and saw two nuclear powers—one emerging nuclear power, one existing nuclear power—and they concluded, rightly or wrongly, from their perspective that they had to be a nuclear power.

It is clear nonproliferation does not work in a vacuum. Nonproliferation entreatments, requests, proddings to a nation that finds itself in a situation where it believes it is threatened by a nuclear neighbor have not worked particularly well, offering those two examples, for example.

It seems to me what we are attempting to do is the only route to get to the point where both India and Pakistan are part of a nonproliferation treaty; that is, we are trying to change the regional situation on the ground. It is not going to happen through a nonproliferation treaty. It is going to happen through a rapprochement between India and Pakistan. The idea that we would be able to, through any legislation, prevent India from moving forward to add additional nuclear weapons, if they so choose to do that—there is no legislation we can pass to do that.

What this legislation does is recognize the reality of the geopolitical situation in the region, set up safeguards to deal with the ability for India to use anything we are doing with them to be able to further advance their nuclear capability, give them a new buy-in to an international regime that will have the effect of putting pressure on them to move in the direction we and the Soviets moved on back when that Backfire bomber strut was sawed off a wing, and that is the route we choose. It is not pretty. It is not clear. It is no guarantee. It is not certain to succeed. But I do know one thing: Absent this agreement, there is a likelihood things get worse instead of better, beyond what may already occur.

I appreciate the Senator's comparisons, but I think they are not as apt as they might appear to be because, again, India's motivation, in terms of its viewing its need for a nuclear arsenal, is not unlike the motivation that existed with regard to the United States and the Soviet Union. It is going to take a geopolitical settlement of that, not a nuclear arms control agreement imposing a settlement on India and Pakistan at this moment, now that the genie is out of the bottle.

I appreciate my friend's point and respect his point of view, but I disagree that it is the best way to move forward.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me respond briefly. There is a very big difference between this and the agreement we had with the Soviet Union. In the Soviet Union agreement, both sides, the United States and the Soviet Union,

decided they wished to reduce the number of nuclear weapons and the delivery systems of those weapons. As a result of that decision, both sides wishing to reduce both weapons and delivery systems, we embarked on a process that was very helpful to both countries and to the world and to world peace. This is very different. This is mutual interest.

But now, we are told it is in our mutual interest, us and India, to have India be allowed to produce additional nuclear weapons, not reduce nuclear weapons. Under this agreement, everyone will agree, India will be allowed to increase nuclear weapons. If India is allowed to increase nuclear weapons under this agreement, that is very different from the agreement we had with the Soviets by which we decided to reduce.

The point is, this agreement says it is in our mutual interest to allow India to increase its production of nuclear weapons. That is clearly not in our mutual interest, but that is what the resolution says.

Second, my colleague is right, none of this operates in a vacuum. This will not be in a vacuum, either. Pakistan will insist on producing more nuclear weapons. So will China. Pakistan has already told our country: If you are going to do this with India, we want you to do it with us. So this decision will not be made in a vacuum vis-a-vis India; this decision will have an impact regionally and around the world.

My colleague is very skillful in presenting his position. I admire both of my colleagues and their skill and determination as well. We just have a difference of opinion. I think this is a very significant mistake.

I have a second amendment which I will send to the desk and offer for its consideration and try to truncate the description of that very briefly, if that is appropriate to the chairman.

Mr. LUGAR. Mr. President, may I respond briefly to my colleague?

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. It would be my hope—and let me discuss this quickly—that the debate on the first amendment of Senator DORGAN is completed. Secondly, I want a short time for Senator DOMENICI of New Mexico to make a statement. And then thirdly, we will proceed to the introduction of Senator DORGAN's second amendment. My hope would be that a unanimous consent will be formulated—I know staff from both sides are working on that—that will provide for rollcall votes on both Dorgan amendments and then, at the conclusion of the debate of the distinguished Senator from New Mexico, on the Bingaman amendment, perhaps a stack of three votes for the convenience of Senators. I am broaching that, not asking for everybody to agree, but I am hopeful that would be a general agreement of those who are around at this point.

It is my hope that the distinguished Senator from New Mexico might be recognized.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the distinguished chairman, Senator LUGAR, for arranging for my few remarks before he proceeds.

After committing to a framework 16 months ago, President Bush and India's Prime Minister announced an agreement earlier this year on civil nuclear cooperation between our two countries. I believe they recognize this historic moment in our history, one that requires vision and foresight to anticipate the world as it will be rather than stuck in the past wishing things somehow would be different. Some will argue that we must pursue a better deal approaching perfection, but the deal that has been negotiated is a good one that we must pursue now and begin taking steps to strengthen the nonproliferation regime with India by our side.

Senators LUGAR and BIDEN and the Foreign Relations Committee have done an admirable job of striking a balance that anticipates this future. This strong, bipartisan bill represents a critical step toward strengthening an eroding nonproliferation framework. We only need look at North Korea and Iran for evidence that this erosion is taking place and as a wake-up call that fundamental change is needed. The global community must work together to assure the peaceful pursuit of civilian nuclear waste.

This historic agreement is a critical step that moves the United States and India toward a strategic relationship between our great democracies. Through this relationship, built on strength, we can jointly work toward a vision of a proliferation-free world. I understand that is a vision. It is not real even now. And while things might even look a little worse, the truth is, the relationship we are building with what we are agreeing to here on the floor, when that completes its course and becomes a reality, then that means we are building toward a proliferation-free world.

India is a worthy partner. That was one of the basic questions: Should you enter into this agreement with a partner that has not been part of the ordinary, agreed-upon, acceptable accords and agreements between countries heretofore? I would remind everyone that India is the largest democracy—a population currently over 1 billion and expected to surpass China in the next 50 years. It has a rapidly expanding economy with a growth rate of over 7 percent a year in 2005, a rapidly expanding economy that is the envy of almost all countries that have free and open democracies. This agreement with India brings global transparency to India's entire civilian nuclear program. We forget that India's civilian and military program still remains closed to global scrutiny. Under this agreement, the entire civilian program, 65 percent of all nuclear activity and eventually 90 percent of all nuclear ac-

tivity, will open to monitoring by the IAEA. Obviously, we ought to start, if that is where we are going to end up, because that is as good as we are going to do. And certainly we ought to be grateful that through the leadership of the President and now the leadership of the Congress, we can get there.

The people are similar to the American people. They desire a better life for themselves and their children. Rapid economic growth that has led to improving their standard of living is projected to result in a doubling of the energy needs of their country in the next 25 years. India must make choices today that drive their energy mix in the future.

Like many countries, they have chosen nuclear power to improve their energy security while reducing reliance on imports. India currently has nine reactors under construction and plans to grow the nuclear share to 25 percent by 2050. That is 100 times the 2002 capacity. Cooperation with India will lead to significant opportunities for U.S. industry to help assure India's energy mix, including nuclear power, is clean, diversified, and proliferation-resistant.

I strongly support an evolving strategic U.S. relationship with India that this agreement promotes. We ought to be proud of it and move with dispatch. It is the world's largest democracy and a worthy partner that we can work with in our pursuit of global security. I have worked with Senator LUGAR in the past on nonproliferation measures that required vision and foresight. With India also, we must look to our future. I urge my colleagues to support this bill and urge dispatch in consideration of the balance of the subject matter.

I thank Senator LUGAR for obtaining time for me on the floor, and I yield the floor.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from New Mexico, Mr. DOMENICI, for his very strong statement, and I simply want to mention again how much I appreciate working with him over the years. The Nunn-Lugar-Domenici legislation was extremely important throughout a good part of the last decade, and on the nonproliferation efforts he has been a champion in the Senate. We appreciate his contribution to this debate today.

Mr. DOMENICI. Thank you, Senator LUGAR.

Mr. LUGAR. I thank the Senator.

Mr. President, I note the presence of the distinguished Senator from North Dakota. We indicated that he would continue by offering his second amendment, and I would advise him to do so, if he is prepared.

AMENDMENT NO. 5182

Mr. DORGAN. Mr. President, I call up amendment No. 5182 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 5182.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 5182

(Purpose: To require as a precondition to United States-India peaceful atomic energy cooperation a determination by the President that India has committed to certain basic provisions consistent with United States nonproliferation goals and the obligations and political commitments undertaken by State Parties to the Nuclear Non-Proliferation Treaty)

On page 8, beginning on line 8, strike "Group; and" and all that follows through "the Nuclear" on line 9 and insert the following:

Group;

(8) India has committed to—

(A) the development of a credible separation plan between civilian and military facilities by ensuring all reactors that supply electricity to the civilian sector are declared and are subject to permanent IAEA standards and practices;

(B) a binding obligation to the same extent as nuclear-weapon State Parties under the Nuclear Non-Proliferation Treaty—

(i) not to transfer to any recipient whatsoever nuclear weapons or nuclear explosive devices or control over such devices directly or indirectly; and

(ii) not in any way to assist, encourage, or induce any non-nuclear-weapon State Party to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices or acquire control over such weapons or explosive devices; and

(C) consistent with the Nuclear Non-Proliferation Treaty—

(i) pursuing negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, including ending fissile material production for nuclear weapons;

(ii) joining a legally-binding nuclear test moratorium;

(iii) verifiably reducing its nuclear weapons stockpile; and

(iv) eventually eliminating all nuclear weapons; and

(9) The Nuclear

AMENDMENT NO. 5178, AS MODIFIED

Mr. DORGAN. Mr. President, I ask unanimous consent to offer a modification to the first amendment I offered today. The amendment had two line numbers in it that were made to the original copy of the legislation. That legislation was subsequently changed. So let me ask unanimous consent that on the initial amendment I offered today, on line 1, the reference to line 15 be struck, and it is line 8; on line 2, the reference to line 15 be struck, and it is line 9.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5178), as modified, is as follows:

On page 5, beginning on line 8, strike "Treaty; and" and all that follows through "that exports" on line 9 and insert the following:

Treaty;

(9) to continue to support implementation of United Nations Security Council Resolution 1172 (1998); and

(10) that exports

Mr. DORGAN. Mr. President, the second amendment I have sent to the desk says that before this United States-India agreement can go into effect, the President must submit to the Congress a written determination that India has committed to certain basic provisions consistent with U.S. nonproliferation goals and with the NPT, the nonproliferation treaty. It requires the President to determine that India has committed to, for example, putting all of its reactors that supply electricity to the civilian sector under the IAEA inspection regime. This would close a loophole that exists in the proposed agreement, and that loophole allows India to keep electricity-producing reactors out of the IAEA inspection regime. Eight of them will be out of the regime, and those eight are going to be behind a curtain, unable to be inspected, and able to produce the materials to produce additional nuclear weapons. Fourteen of the existing and planned nuclear reactors would be inspected, and eight of them would not.

If those other eight reactors produce civilian electricity, my amendment would require that India allow inspection of them.

The bill as now written would allow India to produce energy with nuclear reactors that are closed to IAEA safeguards. My amendment says that is a loophole which should not be allowed. If India can keep energy-producing reactors outside of these safeguards, why shouldn't other countries be allowed to do so? How will our country say to others: Well, we have special deals. We have loopholes here for one, but we are not consistent. There is no consistency with respect to our position on these issues.

The amendment also requires India to undertake a binding obligation not to assist, encourage, or induce non-nuclear weapons states to manufacture or otherwise acquire nuclear weapons. That is what our country has obligated itself to do under the nonproliferation treaty. It is what other nuclear weapons states have done as well, including Russia, China, Britain, and France. They have all agreed to and signed the nonproliferation treaty and agreed to that basic provision, a binding obligation not to assist, encourage, or induce nonnuclear weapons states to manufacture or acquire nuclear weapons.

Lastly, my amendment requires the President to determine that India has committed itself to pursuing negotiations on measures directed at reducing nuclear stockpiles and eventually eliminating nuclear weapons. These are the same commitments, the very same commitments our country has made, the same commitments other nation states which have signed the nonproliferation treaty have made. So I believe it is appropriate that if we have this agreement with India dealing with the issue of nuclear weapons, they should be under the same obligations we are under. Even though they have

not signed the nonproliferation treaty, we have. We have obligations under that treaty. They should accept the obligations under that treaty, in my judgment, even though they have not yet signed it.

This debate today has been interesting and, in many ways, very frustrating as well. I intend to support very aggressively the amendment offered by my colleague from New Mexico, Senator BINGAMAN. I believe that amendment is very important and at the root of much of what I have talked about today as well.

It seems to me this is a case for our children and our grandchildren about what kind of a world they are going to live in. It is interesting. If you just fast forward from 1960 to 1980 to 2000 and fast forward from 2001 to today, we went through a Cold War with the Soviet Union where we had heavy nuclear weapons, huge nuclear weapons with big bombers and powerful missiles aimed at each other, so we had a Cold War. Massive numbers of nuclear weapons were built. We had a standoff between our country and the Soviet Union. There was great concern and worry that somehow, something would happen in which someone would launch a missile or a submarine or an airplane would launch a missile with a nuclear weapon and we would start a nuclear war and our two countries would be obliterated. It didn't happen. Instead, we chose a much more constructive direction.

We and the Soviet Union began what is called arms control talks, and we reached arms control agreements. Those agreements began the destruction of weapons systems, delivery systems, nuclear weapons. I admit that a very small amount of those delivery systems and nuclear weapons were actually destroyed, but some of them were. It was actually moving in the right direction rather than the wrong direction. We developed a test ban treaty. We led the way. We said: We are going to no longer test nuclear weapons. We said that to the world. A nonproliferation treaty. We said this is important to do, and we were the leaders in saying this is the right course for the world. Now we are told: You know what, that is old-fashioned; that is the past; this is the future. I say that what we did then is timeless. These values don't change, the value of deciding that our future ought to be a future with fewer nuclear weapons rather than more nuclear weapons.

If anyone has listened closely, they will know there has been no refutation of the assertion that some of my colleagues and I have made that this agreement will mean we have more nuclear weapons produced. No one has disputed that. This agreement means we are signing up to have more nuclear weapons produced on this Earth. One—just one—nuclear weapon in the hands of a terrorist group pulling up to a dock in a major American city on a container ship at 2½ or 3 miles an hour

can potentially kill hundreds of thousands of American citizens—just one—and there are 30,000 out there. Can anyone here tell me that every one of those 30,000 is safeguarded and that no terrorist organization will acquire one? Can anybody tell me that is going to be the case?

I started this morning talking about a CIA agent called Dragon Fire who reported 1 month after 9/11 that a Russian 10-kiloton nuclear weapon had been stolen by a terrorist group and taken into New York City and was about to be detonated. That episode has been written about in a book. Most of us have heard of it. It was a time when for a month we didn't know if it was true or not. It wasn't disclosed publicly because there would have been mass hysteria if it was thought that a 10-kiloton nuclear weapon had been stolen from Russia and was now in New York City about to be detonated. It eventually was discovered that had not happened. But when they did the post-mortem on that situation, it was understood that it was clearly possible. Russia had those weapons. They were not safeguarded well. They are not, and they were not. They could have been stolen. It could have been smuggled into a major American city by a terrorist group and it could have been detonated, killing hundreds of thousands of people. That is the consequence of one nuclear weapon. Just one. We have 30,000 or so on this Earth. What are we doing today? We are saying it is all right if they build more—in this case, India. It is OK if they build more.

This is not going to be done in a vacuum. What we do here today will have consequences for Pakistan, it will have consequences for China. You think they won't decide if India is going to be allowed to build more nuclear weapons that they won't build more nuclear weapons? Of course they will. That is what this is about.

I understand it is argued that this is geopolitics; you don't understand it; you can't see over the horizon. Maybe not. What I do understand is that this world will be a safer place with fewer nuclear weapons, this world will be a safer place if we care about non-proliferation, if we reduce the number of nuclear weapons, and this world will not be safer if at the end of today we have decided that we have given a green light to a world with more nuclear weapons.

I hope my colleagues will agree with me and support my amendment.

I yield the floor.

Mr. LUGAR. Mr. President, I intend to offer a short statement opposing the amendment. I would ask Members to be alert to the possibility that following my statement, Senator BIDEN has indicated he would put his statement in the RECORD if this plan can then be accepted, and we would then proceed to three rollcall votes: an amendment offered by the distinguished Senator from New Mexico, Mr. BINGAMAN, and two amendments offered by the distin-

guished Senator from North Dakota, Mr. DORGAN. For the convenience of our colleagues, those three votes would come without pause, thus minimizing the dislocation of Members' schedules and accelerating our consideration of this debate.

I am certain the Chair has heard that Senator BIDEN and I, for many of our colleagues who were hopeful that we could proceed in a responsible way but conclude the debate today, on Thursday, are attempting to do that, and we appreciate the cooperation of our colleagues.

Having said that, Mr. President, let me state my opposition to the second amendment offered by the distinguished Senator from North Dakota. His amendment would, in fact, undo the entire effort we have achieved with India over the past year. Not only would he revise India's civilian military separation plan with his amendment, but he would require India to assume the obligations of a nuclear weapons state under the Nuclear Non-Proliferation Treaty, the NPT. This is, in effect, a perfect killer amendment. It should be strongly opposed by every Member of this body who supports an improved relationship with India.

The Senator's amendment adds two new determination requirements to our bill: first, that India's separation plan result in a situation wherein all reactors that supply civilian power are declared to the IAEA and under safeguards; and second, that India assume certain NPT obligations. This is unnecessary and would do us great harm. It adds a new element in the separation plan that the President did not negotiate and would undo the deal we have reached.

India's separation plan is credible and sound, according to criteria developed by the administration in its negotiations with India. As Secretary Rice stated last April:

For the plan to be transparent, it had to be articulated publicly.

It has been.

For it to be credible and defensible from a nonproliferation standpoint, it had to capture more than just a token number of Indian nuclear facilities—

Which it did—

by encompassing nearly two-thirds of India's current and planned thermal power reactors, as well as all future civil, thermal, and breeder reactors. Importantly, for the safeguards to be meaningful, India had to commit to apply IAEA safeguards in perpetuity.

It did so.

Once a reactor is under IAEA safeguards, those safeguards will remain there permanently and on an unconditional basis. Further, in our view, the plan also needed to include upstream and downstream facilities associated with the safeguarded reactors to provide a true separation of civil and military programs. India committed to these steps, and we have concluded that its separation plan meets the criteria established: it is credible, transparent, and defensible from a nonproliferation standpoint.

The amendment changes the metrics for a credible and defensible separation

plan by including that such a plan must mean that any reactor supplying power must be declared. As Secretary Rice stated before the committee:

Regardless of whether they might be used to generate electric power or not, reactors that are not declared civil, and thus are not under IAEA safeguards, cannot legitimately receive nuclear fuel or other nuclear cooperation from any State party to the NPT.

The second element in the Senator's amendment would require India to assume the obligations of a nuclear weapon state party to the NPT.

The administration was careful not to term India a "nuclear weapon state" with similar rights and obligations as those five nations in the NPT with status as lawful weapon states—France, Russia, China, the U.K., and the U.S.—and instead termed India in the July 2005 joint statement a "responsible state with advanced nuclear technology." This was necessary to do no harm to U.S. and other weapons states' status under the treaty.

The Senator's amendment would create obligations similar to those of weapon states for India through creating a determination requirement that the President must make wherein India has assumed the obligations of a nuclear weapon state under the NPT. I would argue that this is not necessary, since it could well provoke India to walk away from the obligations they would assume under our 123 Agreement with them and leave the restraint we might get through that deal on their weapons program on the negotiating table.

India has stated they have no intention to sign or become a party to the NPT, as a weapon state or otherwise. India's July 2005 joint statement commitments are significant, but they do not include NPT membership.

I urge defeat of the amendment; it is a killer.

Mr. BIDEN. Mr. President, I want to associate myself with the remarks made by the Senator from Indiana.

The amendment requires India to declare as civil reactors all reactors that supply electricity to the civil sector.

There is no way that India will accept this.

I might wish they would, but they will not.

That's because for decades, they have built reactors that can be either civil or military.

So India has reserved as military enough reactors to produce more plutonium for nuclear weapons—in case they decide they need to do that.

But India will also use those reactors for electric power.

If this amendment is enacted, India will have to choose to either make all its power reactors civil, and build new ones to produce plutonium; or waste the electric power capability of its current military reactors.

India will not do that.

So this is a killer amendment.

It's also a killer amendment because it requires India to commit to

verifiably reduce its nuclear weapons stockpile.

I wish India would do that—but it will not.

India fears both Pakistan and China, which also have nuclear weapons.

The Dorgan amendment does not require Pakistan and China to reduce their stockpiles, only India.

This is a non-starter for India.

Finally, the amendment requires India to commit to “joining a legally-binding, nuclear test moratorium.” I wish India would do that. I hope the administration will push for that.

But for now, there is only one “legally-binding, nuclear test moratorium.” It is called the Comprehensive Test-Ban Treaty.

And I do not think this administration will press India to join that treaty.

So, I sympathize with all of the concerns raised by this amendment. But I know that it would kill the nuclear deal.

That is the bottom line: if we support the deal, we have to reject this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to a series of stacked votes in relation to the following amendments: the Bingaman amendment No. 5174, the Dorgan amendment No. 5178, as modified and the Dorgan amendment No. 5182; further, that there be no second degrees in order to any of the amendments prior to the votes, that there be 2 minutes of debate equally divided before the second and third votes.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Mr. President, reserving the right to object, I think there is a need for a mild correction.

Mr. DORGAN. Mr. President, I ask unanimous consent that my second amendment be considered, notwithstanding the Harkin amendment that was previously offered.

The PRESIDING OFFICER. Is there objection to the primary request?

Mr. BINGAMAN. Mr. President, could I ask the floor manager? I would prefer if we had 2 minutes equally divided prior to the first vote as well since there has been some time since we debated it. I want the chance to explain it for 1 minute before we have a vote.

Mr. LUGAR. Mr. President, I amend the request to include 2 minutes of debate on the Bingaman amendment No. 5174 prior to the vote.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as amended?

Mr. DORGAN. Mr. President, let me ask the chairman. I wish to respond for 2 minutes to the comments which the chairman just made in opposition to my amendment prior to proceeding to the vote.

Mr. LUGAR. I have no objection to that. I amend the request to include 2 minutes of debate by Senator DORGAN.

The PRESIDING OFFICER. Is there objection, as amended? Without objection, it is so ordered.

AMENDMENT NO. 5182

Mr. DORGAN. Mr. President, I will try not to take the 2 minutes, but it is important to point out the chairman, in responding—and I suspect the ranking member in his response—is saying this is a killer amendment. It is not offered as a killer amendment, but it is the case that my amendment would impose upon India exactly the same burdens that exist upon our country. My colleague, the chairman, said the President “did not negotiate”—he started the sentence. That is what brings me to the floor—that the President “did not negotiate.” What he did not negotiate was a requirement and a burden on India which clearly is a nuclear weapons state. He did not negotiate a requirement and a burden on them that we ourselves assume under the nonproliferation treaty. My amendment would simply provide that requirement and that burden to the country of India.

I come from a town of 300 people. I have to relearn always the lessons of the Senate—and not just the Senate but the way the Government works. In my hometown you always call things just the way they are. You saw it, you spoke it, and described it. In this body, however, now we know that India has a nuclear weapon—has many of them. We know they have detonated them, and we know they are a nuclear weapons state. So we have decided as a country officially to describe India as a responsible state with nuclear technology as opposed to a nuclear weapons state. I don't know; maybe it works here. It doesn't work in my hometown. We have to call things as we see them.

We have responsibilities—all of us do. Our responsibility is, I think, toward nonproliferation, to stop the spread of nuclear weapons, to reduce the number of nuclear weapons. I regret that the underlying piece of legislation is going to result in more nuclear weapons being built.

The second amendment I have offered is an amendment that simply says let us impose on those with whom we negotiate the same burdens we inherit ourselves. In fact, the United States negotiated with India in the way that exempts them from those burdens. I think that is fundamentally wrong.

I yield the floor.

The PRESIDING OFFICER. There is 2 minutes equally divided on the Bingaman amendment.

AMENDMENT NO. 5174

Mr. BINGAMAN. Mr. President, I will briefly describe the Bingaman amendment. It is an amendment that puts into effect the recommendations Senator Nunn made in his op-ed piece in the Wall Street Journal in May of this year. It says that as to nuclear equipment and technology, before we can export or reexport to India nuclear equipment or technology, the President must first determine that both India

and the United States are taking specific steps to conclude a fissile material cutoff treaty.

Second, the amendment says that before any nuclear materials fuel can be exported to India, the President must determine that India has stopped producing fissile materials for weapons.

This is a reasonable amendment. This does not kill the deal, as I would see it. This is something which India has stated a willingness to generally abide by. I think this is the least we can insist upon. I hope very much my colleagues will support this amendment.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I will oppose this amendment as it goes significantly beyond the commitments India made in the joint statement. India will regard this particular requirement that India stop producing fissile materials for weapons as moving the goalposts and an unacceptable renegotiation of the deal—a bad-faith effort on our part.

India maintains that they cannot agree to a unilateral cap at this time. We should not hold up the significant nonproliferation gains afforded by the initiative in order to seek a fissile material cap that India indicates it cannot agree to absent a similar commitment by Pakistan and China. Pakistan continues to produce fissile material for weapons-related purposes and China has not committed to a moratorium on such production. Unfortunately, in my judgment, this is truly a killer amendment. I strongly encourage that amendment be defeated.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I ask for the yeas and nays on the next two amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time on the next amendment?

Mr. LUGAR. Mr. President, my impression was that the call was for the vote and then a 2-minute debate.

The PRESIDING OFFICER. The Senator from Indiana is correct.

The question is on agreeing to the Bingaman amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. THOMAS).

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—26

Akaka	Dorgan	Leahy
Baucus	Durbin	Lincoln
Bingaman	Feingold	Menendez
Boxer	Feinstein	Mikulski
Byrd	Harkin	Obama
Cantwell	Jeffords	Pryor
Conrad	Johnson	Reed
Dayton	Kennedy	Salazar
Dodd	Lautenberg	

NAYS—73

Alexander	Domenici	Murray
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Bayh	Frist	Reid
Bennett	Graham	Roberts
Biden	Grassley	Rockefeller
Bond	Gregg	Santorum
Brownback	Hagel	Sarbanes
Bunning	Hatch	Schumer
Burns	Hutchison	Sessions
Burr	Inhofe	Shelby
Carper	Inouye	Smith
Chafee	Isakson	Snowe
Chambliss	Kerry	Specter
Clinton	Kohl	Stabenow
Coburn	Kyl	Stevens
Cochran	Landrieu	Sununu
Coleman	Levin	Talent
Collins	Lieberman	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	Wyden
DeWine	McConnell	
Dole	Murkowski	

NOT VOTING—1

Thomas

The amendment (No. 5174) was rejected.

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the next rollcall votes be 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 5178, AS MODIFIED

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote on the Dorgan amendment No. 5178, as modified.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, my amendment, in light of the underlying bill brought to the floor of the Senate, would express that we would continue to support the implementation of the United Nations Security Council Resolution 1172.

The reason that is important is it had been the policy of this country to not only author but to support that resolution after India and Pakistan exploded their nuclear weapons.

It calls on them to immediately stop their nuclear weapons development programs, refrain from weaponization or deployment of nuclear weapons, cease the development of ballistic missiles, and so on.

That has been a very important tenet of this country in supporting that United Nations Resolution 1172. Despite what we are doing in the underlying bill, I would hope this country and this Senate would express our support for that which we drafted and that

which we encouraged the rest of the world to support some while ago.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask that Members oppose the Dorgan amendment on the basis that the resolution he talks about is an important one, but it talks about a time in which our relationship with India was very different. It talks about the past. We have been very fortunate in this country to move into a better relationship with India, to a point where we are now going to be in India. The IAEA is going to be in India. We are going to be able to observe a bulk of the nuclear reactors and programs there and to work with India in peaceful development.

There was a time when we did not have that relationship. By "we," I mean the United States and the international community. The situation in India is constructive. This is a time to celebrate and to move on that momentum.

I ask that the Dorgan amendment be defeated.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. The yeas and nays were previously ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from Wyoming (Mr. THOMAS).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 71, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—27

Akaka	Durbin	Leahy
Bingaman	Feingold	Menendez
Boxer	Harkin	Mikulski
Byrd	Jeffords	Nelson (FL)
Clinton	Johnson	Obama
Conrad	Kennedy	Reid
Dayton	Kerry	Salazar
Dodd	Landrieu	Schumer
Dorgan	Lautenberg	Stabenow

NAYS—71

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Murray
Baucus	Ensign	Nelson (NE)
Bayh	Enzi	Pryor
Bennett	Feinstein	Reed
Biden	Frist	Roberts
Bond	Graham	Rockefeller
Brownback	Grassley	Santorum
Bunning	Gregg	Sarbanes
Burns	Hagel	Sessions
Burr	Hatch	Shelby
Cantwell	Hutchison	Smith
Carper	Inhofe	Snowe
Chafee	Inouye	Specter
Chambliss	Isakson	Stevens
Coburn	Kohl	Sununu
Cochran	Kyl	Talent
Coleman	Levin	Thune
Collins	Lieberman	Vitter
Cornyn	Lincoln	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Wyden
DeMint	Martinez	

NOT VOTING—2

McCain Thomas

The amendment (No. 5178), as modified, was rejected.

Mr. LUGAR. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 5182

Mr. DORGAN. Mr. President, the second amendment I had offered says that before the United States-India agreement can go into effect, the President must submit to the Congress a written determination that India has committed to certain basic provisions that are consistent with the U.S. non-proliferation goals and with the non-proliferation treaty. In other words, I would suggest that we should impose the same burdens on India as we have on ourselves. There is great reluctance to do that by this Chamber, but that was my amendment. I must say there is very little education in a third vote if I believe it weakens our efforts in nonproliferation nuclear weapons. So rather than have a third recorded vote, I will ask that we vitiate the recorded vote and vote on this amendment by voice.

The PRESIDING OFFICER. Is there objection?

Without objection, the yeas and nays are vitiated.

Is there further debate? If not, the question is on agreeing to the amendment, as modified.

The amendment, as modified, was not agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR. Mr. President, I would like to indicate that the distinguished Senator from Nevada will offer an amendment. We will then proceed to the Old Senate Chamber for a debate on that amendment. I think we have an agreement that the extent of the debate will be no more than 60 minutes. We would return to this Chamber for the actual vote on the Ensign amendment, following the debate in the Old Senate Chamber. Therefore, the Senator from Nevada should be recognized so that he can start that process.

AMENDMENT NO. 5181

Mr. ENSIGN. Mr. President, I call up amendment No. 5181 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 5181.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 5181

(Purpose: To ensure that IAEA inspection equipment is not used for espionage purposes)

Strike section 262 and insert the following:

SEC. 262. IAEA INSPECTIONS AND VISITS.

(a) CERTAIN INDIVIDUALS PROHIBITED FROM OBTAINING ACCESS.—No national of a country designated by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) as a government supporting acts of international terrorism shall be permitted access to the United States to carry out an inspection activity under the Additional Protocol or a related safeguards agreement.

(b) PRESENCE OF UNITED STATES GOVERNMENT PERSONNEL.—IAEA inspectors shall be accompanied at all times by United States Government personnel when inspecting sites, locations, facilities, or activities in the United States under the Additional Protocol.

(c) USE OF UNITED STATES EQUIPMENT, MATERIALS, AND RESOURCES.—Any inspections conducted by personnel of the IAEA in the United States pursuant to the Additional Protocol shall by carried out using equipment, materials, and resources that are purchased, owned, inspected, and controlled by the United States.

(d) VULNERABILITY AND RELATED ASSESSMENTS.—The President shall conduct vulnerability, counterintelligence, and related assessments not less than every 5 years to ensure that information of direct national security significance remains protected at all sites, locations, facilities, and activities in the United States that are subject to IAEA inspection under the Additional Protocol.

Mr. LUGAR. Mr. President, I understand that the Senator from Delaware, as the ranking member, will offer the official motion sending us over to the Chamber.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, if I understand the parliamentary situation properly, and I am not sure I do, I ask unanimous consent that following the offering of the Ensign amendment, the Senate stand in recess subject to the call of the Chair so that it may reconvene pursuant to the previous order.

I further ask that the following Senate staff be permitted to attend the closed session, and I send the list to the desk.

The list is as follows:

Mike Disilvestro; Joel Breitner; Mary Jane McCarthy; Paul Nelson; Richard Verma; Stephen Rademaker; Marcel Lettre; Nancy Erickson; Lynne Halbrooks; Scott O'Malia; Pam Thiessen; Thomas Moore; Lynn Rusten; Ed Corrigan; Rexon Ryu; Ken Myers III; Ken Myers, Jr.; Brian McKeon; Ed Levine; Madelyn Creedon; Nancy Stetson; Diane Ohlbaum; Anthony Blinken; Janice O'Connell.

Mr. BIDEN. Mr. President, before the Chair rules, I will remind Senators that those who attend the closed session are not permitted to bring any electronic devices into the Old Senate Chamber. Mr. President, I send to the desk the list of the names of the staff members that could be present.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. The Ensign amendment now being the pending question, the Senate stands in recess subject to the call of the Chair.

Whereupon, the Senate, at 3:43 p.m., recessed subject to the call of the Chair and reassembled at 4:59 p.m. when called to order by the Presiding Officer (Ms. MURKOWSKI.)

Mr. LUGAR. Madam President, we are now prepared to vote in relation to the Ensign amendment. I ask unanimous consent that following that vote, Senator FEINGOLD be recognized to offer his amendment and that there be 90 minutes equally divided on that amendment. I further ask unanimous consent that following the use or yielding back of time on that amendment, it be set aside, and Senator BOXER be recognized in order to offer her amendment; provided further that there be 45 minutes equally divided in relation to that amendment. Further, that following that time the Senate proceed to a vote in relation to the Feingold amendment, to be followed by the Feingold amendment, with no second-degrees in order, and following these votes, the bill be read for a third time and the Senate proceed to a vote on passage of the House bill as provided in the previous order. I would also ask that there be 2 minutes equally divided for debate prior to each vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair. We are now prepared to vote in relation to the Ensign amendment.

The PRESIDING OFFICER. Do Senators yield time on the amendment?

Mr. LUGAR. Yes.

VOTE ON AMENDMENT NO. 5181

The PRESIDING OFFICER. All time is yielded. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Wyoming (Mr. THOMAS).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

The result was announced—yeas 27, nays 71, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—27

Allard	Dorgan	Kyl
Bunning	Ensign	Lott
Coburn	Enzi	McConnell
Coleman	Frist	Menendez
Collins	Grassley	Santorum
Conrad	Gregg	Sessions
Cornyn	Hutchison	Smith
DeMint	Inhofe	Snowe
Dole	Johnson	Sununu

NAYS—71

Akaka	Biden	Burr
Alexander	Bingaman	Byrd
Allen	Bond	Cantwell
Baucus	Boxer	Carper
Bayh	Brownback	Chafee
Bennett	Burns	Chambliss

Clinton	Kerry	Reed
Cochran	Kohl	Reid
Craig	Landrieu	Roberts
Crapo	Lautenberg	Rockefeller
Dayton	Leahy	Salazar
DeWine	Levin	Sarbanes
Dodd	Lieberman	Schumer
Domenici	Lincoln	Shelby
Durbin	Lugar	Specter
Feingold	Martinez	Stabenow
Feinstein	McCain	Stevens
Graham	Mikulski	Talent
Hagel	Murkowski	Thune
Harkin	Murray	Vitter
Hatch	Nelson (FL)	Voinovich
Inouye	Nelson (NE)	Warner
Isakson	Obama	Wyden
Kennedy	Pryor	

NOT VOTING—2

Jeffords Thomas

The amendment (No. 5181) was rejected.

Mr. LUGAR. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ISAKSON). Under the previous order, the Senator from Wisconsin is recognized. Will the Senator suspend?

Did the distinguished chairman wish to be recognized?

Mr. LUGAR. Mr. President, just for clarification, I ask unanimous consent that the Feingold and Boxer amendments be in order, notwithstanding adoption of the Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. LEAHY. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. FEINGOLD. I yield.

Mr. LEAHY. Mr. President, how long did we spend in that last 15-minute rollcall?

The PRESIDING OFFICER. We spent approximately 39 minutes.

Mr. LEAHY. Thirty-nine?

The PRESIDING OFFICER. Thirty-six. I apologize.

Mr. LEAHY. Thirty-six for a 15-minute rollcall. I am just curious, for those of us who might actually have a life after dark around this place, how much longer the rest will be.

I thank the Chair.

The PRESIDING OFFICER. The Chair would recognize that the distinguished majority leader's retirement recognition with the Vice President was being held, and that was probably the delay, for the meeting.

The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

AMENDMENT NO. 5183

Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 5183.