

Senate Foreign Relations Committee
Opening Statement for Business Meeting
Senator Richard G. Lugar
June 29, 2006

Today the Foreign Relations Committee meets to consider legislation pertaining to the U.S.-India Civilian Nuclear Agreement. We also will vote on an agenda that includes 11 nominations, 2 resolutions, and a treaty.

The Committee has undertaken an extensive review of the India nuclear agreement. We have held four public hearings with testimony from 17 witnesses, including Secretary of State Condoleezza Rice. In closed session, we received a classified briefing from Undersecretaries of State Nick Burns and Bob Joseph. I have submitted 174 written questions for the record to the Department of State on details of the agreement and posted the answers on the Committee website. Committee staff members have hosted numerous briefings by the Congressional Research Service, the Administration, and other experts for the benefit of Senators' staffs.

I believe that 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 U.S.-India agreement allows India to receive nuclear fuel, technology, and reactors from the United States – benefits that were previously denied to it because of its status outside the Nuclear Non-proliferation Treaty (NPT). We must ensure that this agreement does not undercut our responsibilities under the NPT. I believe that we can do that. Moreover, the agreement can be a lasting incentive for India to abstain from further nuclear weapons tests and to cooperate closely with the United States in stopping proliferation.

We have already seen strategic benefits from our improving relationship with India. India's votes at the IAEA on the Iran issue last September and this past February demonstrate that New Delhi is able and willing to adjust its traditional foreign policies and play a constructive role on international issues.

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.

The Lugar-Biden mark gives important authorities to the Administration to negotiate with India, but our legislation does not restrict or predetermine Congressional action on the forthcoming 123 Agreement. Congress will have to approve this subsequent agreement before it goes into force.

I thank Senator Biden for his close cooperation on developing this important bill. The legislation reflects our shared views and concerns. He and his staff have been valuable partners in the drafting of this bill, and the final product is much stronger because of their efforts. I believe that we have constructed a bill that allows us to seize an important strategic opportunity, while ensuring a strong Congressional oversight role and reinforcing U.S. non-proliferation efforts.

The Lugar-Biden mark, unlike the Administration's original legislative proposal, preserves Congress' prerogatives with regard to the 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 then overcame 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 fully protects Congress' role in the process and ensures Congressional views will be taken into consideration.

Beyond this key provision, Senator Biden and I have sought to ensure that important export control and non-proliferation efforts remain strong and consistent.

Sections 2 and 3 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 4 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 5 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 guarantee that this multilateral organization will continue to play a vital role in global non-proliferation efforts.

Section 6 supports timely consideration of nuclear export applications, but 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 to India from the United States if they are for proliferation-resistant activities that involve the United States or have the sponsorship of a recognized international body like 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 7 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 8 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.

Section 9 requires that no action be undertaken pursuant to peaceful cooperation with India that would violate any U.S. obligation under the NPT. Section 10 explicitly stipulates that if India

conducts a nuclear test, U.S.-India civilian nuclear cooperation will be terminated. Finally, Sections 11 and 12 define Missile Technology Control Regime adherence 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 agree with this assessment and 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 have agreed to add an important piece of non-proliferation legislation to this bill as Title II. In 2004 the Senate ratified the IAEA Additional Protocol, but Congress has not passed implementing legislation that is required before the treaty can 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. Unfortunately, we have been unable to secure Senate passage by unanimous consent. At a time when the U.S. is demanding that India complete and ratify an Additional Protocol as part of our civilian nuclear agreement and we are continuing to demand that Iran abide by its Additional Protocol, it is important that Congress complete its work. Continued failure to pass this bill would weaken U.S. standing and President Bush's diplomatic leverage on these important issues.

Before turning to the Ranking Member for his opening statement, I would like to take a moment to thank Sharon Squassoni and the Congressional Research Service. Sharon has been an integral part of the committee's review of this important agreement. We thank CRS for making her available to the committee.

When a quorum is present, I will move to adopt by voice vote the nominations, resolutions, and treaty on today's agenda. This would leave the Lugar-Biden mark on India remaining for debate.

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