

The US/India Civil Nuclear Agreement of 2008: A Two-Level Game?

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Abstract

Nuclear power relationships between states have historically determined global power structures in a wider context. Following India's maiden nuclear test in 1974, the international community sidelined the country for a long time. However, within the next three decades, international opinions about the India significantly improved and paved the way for the country's first civilian nuclear deal. That said, the circumstances behind this deal and the United States of America (US)' objectives involved therein merit a review, considering changes in the US' domestic situation and changing political realities around the world. Did the US make an objective foreign policy decision by pivoting its nuclear policy towards India? Or was the US playing a strategic two-level game with both domestic interests as well as its international agenda at stake? This paper seeks to analyze the different layers of interests that were involved in the US' decision-making process resulting in the Agreement. It also aims to apply Robert Putnam's Two-Level Game Theory to understand these interests in a better way.

Introduction

On July 18, 2005, George W Bush, then President of the United States of America ("US"), and Manmohan Singh, then Prime Minister of India, issued a joint statement that laid the foundation for a framework agreement (the "Agreement") on civil nuclear cooperation between the two countries. Under the framework, India agreed to do the following: (a) separate its civil and military nuclear facilities, and (b) put all its civil nuclear facilities under the safeguards of the International Atomic Energy Agency ("IAEA"). Simultaneously, the U.S. agreed to work towards full civil nuclear cooperation with India through the initiation of commercial nuclear trade and collaboration on civil nuclear technology between the two countries.

It was a momentous development in US/India relations and defined a new chapter in international non-proliferation rules. However, for the Agreement to take effect, several changes were implemented in US domestic law, and exceptions were made in international rules to enable India's inclusion in the nuclear cooperation framework.

This case is a strong example in support of Robert Putnam's Two-Level Game Theory in international negotiations. In his seminal article, "Diplomacy and Domestic Politics: The Logic of Two-Level Games", published in 1988, he states that international negotiations proceed on two levels – domestic and international.¹ The negotiators are not only required to pursue gains and objectives in their foreign policies, but they are also compelled to respond to the needs of their domestic constituencies through the granting of concessions in order to build coalitions.² Building coalitions may not be elemental to the maintenance of international peace, but it has been historically relied upon as a show of strength and lasting partnership between nations.

The nature of concessions given to India as part of this "sweetheart deal"³ becomes relevant under the theory as we delve into the circumstances of the Agreement and the mindset of the key actors involved in the process. The concessions included: (a) an exemption from signing the Non-Proliferation Treaty ("NPT"), (b) a waiver from the Nuclear Suppliers Group ("NSG") to commence civilian nuclear trade, and (c) the ability to buy dual-use nuclear technology⁴ from the U.S., including materials that facilitate uranium enrichment of materials and equipment.⁵ The advantages to India from the above concessions are twofold. Inclusion in the NPT and NSG club of nations not only allows India access to superior nuclear trade and technological opportunities,

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¹ Robert D Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organization* 42, no. 3 (1988): 427–60.

² Putnam, "Diplomacy and Domestic Politics".

³ See definition at Daniel Liberto, "Sweetheart Deal." Investopedia, 30 July 2021, <https://www.investopedia.com/terms/s/sweetheartdeal.asp>.

⁴ Jayshree Bajoria, and Esther Pan, "The U.S.-India Nuclear Deal", Council on Foreign Relations, 5 November 2010. <https://www.cfr.org/backgrounder/U.S.-india-nuclear-deal>.

⁵ Sharon Squassoni, "The U.S.'s Catastrophic Nuclear Deal with India: Power Failure", Carnegie Endowment for International Peace, 6 August 2007, <https://carnegieendowment.org/2007/08/06/u.s.-s-catastrophic-nuclear-deal-with-india-power-failure-pub-19475>.

but it also elevates its status to the global nuclear elite – a group of nations that identify as the custodians of international nuclear peace and security. These concessions signify the US' aim to balance both international relations and domestic interests by empowering India as a dependable nuclear ally.

In this paper, I attempt to explore the circumstances which resulted in this Agreement in greater detail. Although the political realities of the time had a big role to play in it, the US' overarching interest in ensuring that India was welcomed into the legitimate nuclear fold of the world was instrumental in the Agreement's success. This paper focuses only on the US side of decision-making. First, it assesses both the political and historical events that led to the Agreement. Secondly, the paper examines the macro-level interests of stakeholders and political actors in the US who steered the decision-making process. Thirdly, it applies Putnam's theoretical perspectives to the facts and illustrates how, and to what extent, the Two-Level Game Theory explains the US' motivation behind the Agreement. Finally, the paper outlines some of the limitations that may have existed in the theoretical application of the Two-Level Game Theory to this case. It is crucial to understand this part of the paper given that the application of the Two-Level Game Theory is not a universal one, and therefore, comes with limitations vis-à-vis other political agreements of similar nature that have concluded in the contemporary times. Ultimately, the paper concludes that it was a combination of the situational advantages and political leadership, influenced by two-level interests and opportunities, that led to the development of this deal.

Key Actors and Circumstances Leading to the Decision

To evaluate Putnam's Two-Level Game Theory and how it relates to the Agreement, it is beneficial to explore the domestic and international circumstances that led to the Agreement. The US Congress passed the Hyde Act in December 2006,⁶ which set the stage for the government to negotiate a nuclear agreement with India. The Act

⁶ "Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006," 109th Congress 2d Session, House of Representatives, Report 109-721, December 7, 2006. <https://bis.doc.gov/index.php/documents/additional-protocol/198-report-109-721/file>.

exempted India from the specific criteria⁷ under Section 123 of the Atomic Energy Act⁸ which qualifies foreign states to enter into nuclear agreements with the US. This is evidence of how US lawmakers amended their domestic law on foreign nuclear partnership to facilitate entering into an agreement with India.

President George W Bush remained central to the decision-making process. Former National Security Advisor Steve Hadley affirms the President's "affinity" with India by saying, "We share common values. We increasingly share common interests ... back in '99, [The President] was saying one of his priorities was to develop and intensify and broaden the relationship with India. And he is trying to do that."⁹

After India joined the nuclear club in 1974, relations with the US remained weak and often combative. In the post-Cold War era, the US sought to reframe its nonproliferation and defense priorities.¹⁰ The Bush administration's key appointees – Condoleezza Rice, Stephen Hadley, and Robert Blackwill – were supporters of de-prioritizing arms control regimes.¹¹ The US' unilateral pullout from the Anti-Ballistic Missile (ABM) Treaty in 2002 is an example of the United States' reluctance to commit to global arms and weapons control treaties.¹² Washington assessed the nonproliferation policies of other countries by whether they constituted a threat to US national security rather than strengthening the international regime. However, when India showed no signs of giving up its *de facto* nuclear status,¹³ the

⁷ "Atomic Energy Act of 1954 [As Amended Through P.L. 117–81, Enacted December 27, 2021]," January 18, 2022. <https://www.govinfo.gov/content/pkg/COMPS-1630/pdf/COMPS-1630.pdf>.

⁸ See full text at OECD. "U.S. Atomic Energy Act, Section 123. Cooperation With Other Nations." Accessed July 6, 2023. https://www.oecd-neo.org/law/nlbfr/documents/087_090_USAtomicEnergyAct.pdf.

⁹ United States of America Department of State Archive, "Press Briefing by National Security Advisor Steve Hadley on the President's Trip to India and Pakistan," 24 February 2006, <https://2001-2009.state.gov/p/sca/rls/rm/2006/62200.htm>.

¹⁰ White House Archives, "Remarks by the President to Students and Faculty at National Defense University", 1 May 2001, <https://georgewbush-whitehouse.archives.gov/news/releases/2001/05/20010501-10.html>.

¹¹ Weiss, Leonard. "US-India Nuclear Cooperation Better Late than Sooner." *Nonproliferation Review* 14, no. 3 (November 2007). <https://doi.org/10.1080/10736700701611738>, 11.

¹² Wade Boese, "U.S. Withdraws from ABM Treaty; Global Response Muted | Arms Control Association", Arms Control Association, July 2002. <https://www.armscontrol.org/act/2002-07/news/U.S.-withdraws-abm-treaty-global-response-muted>.

¹³ Lalit Mansingh, "Indo-U.S. Strategic Partnership: Are We There Yet?" *Institute of Peace and Conflict Studies*, October 1, 2006. <https://www.jstor.org/stable/resrep09109>.

US policy shifted towards a tacit recognition. The American business community also grew increasingly wary of the effect that sanctions on India had on US markets.¹⁴

The Jaswant Singh-Strobe Talbott dialogue,¹⁵ which began in 1998, further accelerated more meetings and policy dialogues on both sides. The shared experiences of terrorist attacks in 2001 – September 11 and the December attack on Indian Parliament – instilled a common interest in defense partnership between Washington and New Delhi. Secretary Donald Rumsfeld's visit to India in November 2001, less than a month after the U.S. began military operations in Afghanistan, showed that Washington's defense commitment to New Delhi had broader political and strategic intentions.

The decision-making process in this case moved towards a White House dominated approach that bypassed the interagency process.¹⁶ Although every administration has its own way of doing things, the centrality of a White House-led policy vehicle as opposed to one led by the National Security Council shows a more pronounced role of the executive branch. It represents the administration's intention to depart from a rules-based strategic context. One advantage of this departure was that the negotiations advanced quickly. On the other hand, the price of adopting this strategy can be measured by the internal politicking and external diplomatic capital, which were warranted to make the Agreement palatable to both sides. A detour from the interagency process may also act against the spirit of deliberative democracy. However, a detour has its advantages when paired with a close-knit advisory circle, like in this instance. Such coordination was a direct manifestation of Putnam's Two-Level Game Theory.

¹⁴ Patrick Mendis and Leah Green, *Dealing with Emerging Powers, Chapter 4. U.S.-India Civil Nuclear Cooperation Agreement* Edited by Richard Weitz. Vol. 1. Center for the Study of the Presidency, Project on National Security Reform, 2008. https://www.academia.edu/7426784/National_Security_Case_Study_on_U.S._India_Civil_Nuclear_Cooperation_Agreement.

¹⁵ Brahma Chellany, "Strobe Talbott Chronicles India-U.S. Relations after Pokhran in 'Engaging India...'" *India Today*, October 4, 2004. <https://www.indiatoday.in/magazine/society-and-the-arts/books/story/20041004-engaging-india-diplomacy-democracy-and-the-bomb-by-strobe-talbott-789105-2004-10-03>.

¹⁶ Mendis and Green, *Dealing with Emerging Powers, Chapter 4. U.S.-India Civil Nuclear Cooperation Agreement*, 37.

Evidence of Two-Level Games

Two-Level Game logic: ¹⁷

“The politics of many international negotiations can usefully be conceived as a two-level game. At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign.”

In the domestic first-level game, the negotiators try to address the concerns of internal actors and build a workable agenda with them. In the international second-level game, the negotiators seek a deal that is among the possible “wins” of their state’s designated “win-set”.¹⁸ The win-sets are the possible outcomes that are favorable to the state’s interests.¹⁹ They are pre-conceived targets in the deal designed by accommodating domestic interest groups who can later ratify the deal or offer some other form of government support. International agreements happen when an overlap occurs between the win-sets of the states involved in the negotiations.²⁰ The larger the win-set, the more likely they are to overlap and materialize the deal. The smaller the win-set, the greater the risk of negotiations breaking down.

The Bush administration realized that the way to forge an alliance with India was by removing restrictions on nuclear trade while asking India to comply with the minimal nonproliferation commitments.²¹ This change in attitude towards New Delhi laid the

¹⁷ Robert D Putnam, “Diplomacy and Domestic Politics”, 434.

¹⁸ Eugénia da Conceição-Heldt, and Patrick A. Mello. *Two-Level Games in Foreign Policy Analysis*. Oxford Research Encyclopedia of Politics. (New York and Oxford: Oxford University Press, 2017).

¹⁹ Robert D Putnam, “Diplomacy and Domestic Politics”, 427–60.

²⁰ David Milne, “The 1968 Paris Peace Negotiations: A Two-Level Game?” *Review of International Studies* 37 (2011): 577–99. <https://doi.org/10.1017/S0260210510000720>.

²¹ Sharon Squassoni, “The U.S.-Indian Deal and Its Impact”, Arms Control Association. Accessed December 11, 2022. <https://www.armscontrol.org/act/2010-07/U.S.-indian-deal-its-impact>.

foundation of trust towards India that shaped all future bilateral relations. The fundamental belief that India is a responsible nuclear power ensured that the political win-sets favoring the Agreement were quite broad, and hence, more likely to succeed.

Rise of Partnership with India as an Asian Counterweight to China

The US' primary international objective was maintaining nuclear deterrence.²² Despite what critics said about the US setting a dangerous precedent in nonproliferation when it entered into the Agreement with India, the Department of State maintained the vitality of the Agreement and its role in transforming the partnership between “the world’s oldest and the world’s largest democracy”.²³ The rise in trust and international commentary about the partnership with India enabled the US Congress and the President to waive s 123 requirements for New Delhi by citing that the waiver was not “seriously prejudicial to the achievement of [the] United States nonproliferation objectives [n]or [does it] otherwise jeopardize common defense and security”.²⁴

At the domestic level, President George W Bush based his transformative stance on US/India relations on the core strategic principle that a democratic India was the key to balance the rise of China’s power.²⁵ Robert Blackwill, a key contributor to Bush’s India policy, acknowledged that, “without the China factor, the [Bush] administration would not have negotiated the Agreement and the [US] Congress would not have approved it”.²⁶ Relations with Beijing remained adversarial and complex. Washington also frowned upon Beijing’s increased military spending, saying “it is not consistent” with the country’s stated goal of a “peaceful rise”.²⁷ China’s rise in the world, especially following its entry in the World Trade Organization, and its perceived malaise on the US economy has been a burning issue in several Presidential election campaigns

²² The White House, Washington. “National Security Strategy,” October 2022. <https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf>.

²³ United States of America Department of State Archive. “Our Opportunity with India, Secretary Condoleezza Rice (Op-Ed, The Washington Post),” March 13, 2006. <https://2001-2009.state.gov/secretary/rm/2006/63008.htm>.

²⁴ “U.S. Atomic Energy Act, Section 123. Cooperation With Other Nations.” Accessed December 11, 2022. https://www.oecd-nea.org/law/nlbfr/documents/087_090_USAtomicEnergyAct.pdf.

²⁵ Robert D. Blackwill, “The Future of U.S.-India Relations”, The RAND Blog, May 6, 2009, <https://www.rand.org/blog/2009/05/the-future-of-U.S.-india-relations.html>.

²⁶ Saira Bano, “Pakistan: Lessons from the India-U.S. Nuclear Deal”, The Diplomat, 22 June 2015. <https://thediplomat.com/2015/06/pakistan-lessons-from-the-india-U.S.-nuclear-deal/>.

²⁷ Council on Foreign Relations, “Timeline: U.S.-China Relations (1949-2002)”, 4 November 2022, <https://www.cfr.org/timeline/U.S.-china-relations>.

since the 2000s.²⁸ The impact of trade with China on the US economy affects the American public opinion, and consequently voting behavior, to a great extent.²⁹ In addition, China's rise as an economic powerhouse and its fast-forging alliance with Pakistan, another nuclear state that neighbors India, presented an opportune convergence of interests from both sides when it came to countering contemporary rivals. The Bush administration, unlike some of its predecessors, departed from the course of maintaining strong alliances with Pakistan, which had become a sore spot for India in the past. A renewed commitment to India, and its interests, by countervailing the positions of two of its biggest regional rivals – China and Pakistan – was a great recipe for peace in Asia. It also appealed to the American public which was growing increasingly wary of China's market emergence and Pakistan's upsetting involvement with the rise of Islamic extremism in the 21st century. During his campaign, President Bush referred to India as an "important but needlessly ignored country".³⁰ He also complimented the Indian-American community, who are an integral part of the US society and economy and are some of the most important donors to his presidential campaign.³¹ Therefore, partnering with India to manage China is an idea that received bold traction domestically in the U.S.³² In the scheme of two-level games, supporting India's rise in Asia as a counterweight to China is beneficial, seeing as the US public is more receptive to India due to its democratic identity and non-aggressive international relations.³³

Trade Inclusion and Domestic Economic Opportunity

²⁸ Laura Ruth Silver "China in the Media: Effects on American Opinion." Publicly Accessible Penn Dissertations, 2016. <https://repository.upenn.edu/cgi/viewcontent.cgi?article=3803&context=edissertations>, 117.

²⁹ David Autor, David Dorn, Gordon Hanson, and Kaveh Majlesi, "Importing Political Polarization? The Electoral Consequences of Rising Trade Exposure", *NBER Working Paper Series*. MA, Cambridge: National Bureau of Economic Research, September 2016. https://www.nber.org/system/files/working_papers/w22637/w22637.pdf. at 4, 6, and 11.

³⁰ Jane Perlez, "U.S. Ready to End Sanctions on India to Build Alliance", *The New York Times*, 27 August 2001, <https://www.nytimes.com/2001/08/27/world/U.S.-ready-to-end-sanctions-on-india-to-build-alliance.html>.

³¹ Perlez, "U.S. Ready to End Sanctions on India to Build Alliance".

³² Chengxin Pan, "The 'China Threat' in American Self-Imagination: The Discursive Construction of Other as Power Politics", *Alternatives: Global, Local, Political* 29, no. 3 (2004): 311, 319. <http://www.jstor.org/stable/40645119>.

³³ Timothy Rich, and Vasabjit Banerjee, "Which Side Would the U.S. Public Choose in an India-China Conflict?", *The Interpreter*, 30 July 2020, <https://www.lowyinstitute.org/the-interpreter/which-side-would-U.S.-public-choose-india-china-conflict>.

The second international-level interest of the US was with India's greater participation in the global economy. India's huge nuclear market was an incentive for global nuclear suppliers to lift sanctions against New Delhi that had been imposed due to prior bomb testing. These sanctions from the Clinton-era cut off a significant part of the US' economic and military assistance to India. It also harmed India's ability to source loans from international agencies. Owing to these sanctions, India witnessed massive economic crisis in the aftermath of the Pokhran tests in 1998.³⁴ The sanctions also affected India's defense and technological capabilities, as the country was perceived as a rogue nuclear state, thereby disincentivizing its nuclear trade or high technological partnership with others.³⁵ Several countries, including France, Germany, the United Kingdom ("UK"), and Italy were in favor of lifting sanctions on India.³⁶ As per the accounts of Strobe Talbott, France and Italy had started to "break ranks" with their allies by holding their own strategic dialogues with India.³⁷ The UK and Germany followed suit by pressing for the need to normalize relations with India.³⁸ Moreover, Russia violated the NSG guidelines at least twice by supplying reactors to India in 1998 and 2001 and threatened to quit membership in the group when it was flagged for the violations.³⁹ Soon after the NSG waiver was granted, many countries entered into their own nuclear agreements with India.⁴⁰ The willing overtures from other nations to ease, and arguably promote, relations with India testifies to the growing influence of India as an economic power both in the sub-continent and at the global level. Therefore, excluding it from the global nuclear paradigm (despite India being a nuclear power) was antithetical to the narrative of international peace and security, and required amendment. The Bush administration was aware of this and more than willing to act on it.

³⁴ Charan D. Wadhva, "Costs of Economic Sanctions: Aftermath of Pokhran II", *Economic and Political Weekly* 33, no. 26 (1998): 1605. <http://www.jstor.org/stable/4406922>.

³⁵ Soumya Bhowmick, "From Pokhran-II to 'Make in India': India's Economic Dimensions and Defence Capabilities." *Observer Research Foundation*, May 12, 2023. <https://www.orfonline.org/expert-speak/from-pokhran-ii-to-make-in-india/>.

³⁶ Strobe Talbott, *Engaging India: Diplomacy, Democracy, and the Bomb*. 2nd ed. Brookings Institution Press, 2006. <https://www.jstor.org/stable/10.7864/j.ctt1287btq>, 143.

³⁷ Talbott, *Engaging India*.

³⁸ Talbott, *Engaging India*.

³⁹ Bano, "Pakistan: Lessons from the India-U.S. Nuclear Deal".

⁴⁰ Pulkit Mohan, and Pallav Agarwal, "India's Civil Nuclear Agreements: A New Dimension in India's Global Diplomacy", *Observer Research Foundation*, October 4, 2019. <https://www.orfonline.org/research/india-civil-nuclear-agreements-new-dimension-india-global-diplomacy/>.

Meanwhile, US domestic interests favored trade with India not just in the civil nuclear sector, but also in others.⁴¹ Political commentators in India, like Sanjaya Baru, often point out the underpinnings that led to the Agreement being called a “deal” owing to the transactional nature of its terms.⁴² During a meeting with the former Indian Prime Minister Dr Manmohan Singh, a US representative is reported to have said “it’s 123 for 126”.⁴³ The reference was made to the [123] Agreement being signed in exchange for the 126 fighter jets that the US was planning to sell to India.⁴⁴ This suggests that the US government had to account for the pressure from the domestic military industrial complex in signing the Agreement.

Domestic US sentiments also viewed India’s historical affiliation with the non-aligned movement and its strategic tilt towards the Soviet Union as an impediment. Therefore, at the turn of the new century, the Bush administration decided to balance the scales by persuading New Delhi to join the Western camp, while pushing defense sales to a large weapons market in the process. Secretary Condoleezza Rice also affirmed that the Agreement “is good for jobs” considering the open-door approach to civilian nuclear trade and India’s plan to buy eight reactors from the U.S. by 2012.⁴⁵

Cultural Alliance and Decoupling from Pakistan

The reliance on India as a “strong, stable, democratic, and outwardly looking global player”⁴⁶ intensified considering the post-9/11 revision of US’ foreign policy strategy. The administration took the promise of full-scale cooperation with India seriously. Secretary Rice stated that Washington understood and appreciated the cultural exchange between the two countries, particularly the two million people of Indian origin

⁴¹ Inu Manak and Manjari Chatterjee, “Boosting Trade, the Key to Stronger Indo-U.S. Ties”, Council on Foreign Relations, December 19, 2022. <https://www.cfr.org/article/boosting-trade-key-stronger-indo-u.s.-ties>.

⁴² Sanjaya Baru, “An Agreement That Was Called a Deal”, *The Hindu*, 21 July 21 2015, <https://www.thehindu.com/opinion/lead/India-USA-stand-in-nuclear-deal/article62116541.ece>.

⁴³ Baru, “An Agreement That Was Called a Deal”.

⁴⁴ Baru, “An Agreement That Was Called a Deal”.

⁴⁵ United States of America Department of State Archive, “Our Opportunity with India, Secretary Condoleezza Rice (Op-Ed, The Washington Post)”, March 13, 2006. <https://2001-2009.state.gov/secretary/rm/2006/63008.html>.

⁴⁶ Brookings Institution, “James Steinberg’s Speech - Panel Discussion on ‘The India-U.S. Nuclear Agreement: Expectations and Consequences’”, 23 March 2009. https://www.brookings.edu/wp-content/uploads/2012/04/20090323_steinberg.pdf.

living in the U.S. who represent a cultural bridge between the two nations.⁴⁷ This represents a strong domestic-level interest to improve relations with India.

However, one of the important distinctions of the Agreement is that perhaps, for the first time, US/India relations were distinct from US/Pakistan relations.⁴⁸ The US' relations with Pakistan in the latter half of the 20th century developed mostly as a counterbalance to India's close relations with the USSR. However, the disintegration of the USSR dispelled the need for such counterbalance any further because American policymakers began to see India's holistic economic and political prominence in Asia. Both the US and India observed similarities in their democratic governments, pluralistic societies, and a shared interest in open global markets, which set the stage for a robust partnership in future US/India relations. In particular, the second term of the Bush presidency focused on seeing India with a separate identity. India's perceived separation from Pakistan became more obvious in the six fundamental premises upon which the US policymakers negotiated the Agreement.⁴⁹ For example, one of the premises was that India has never been a threat to the US and that India's possession of nuclear weapons breaks no international treaty; rather, it would make a good partner in combating terrorism and the states that present a threat.⁵⁰

The language of the Agreement became relevant after the revelation that the founder of Pakistan's nuclear weapons program, A Q Khan, was involved in the transfer of technology to Iran, Libya, and North Korea.⁵¹ Pakistan's growing partnership with China also led the US tilting to India's favor in nuclear partnership.⁵² This was an important pivot in the US' policy in South Asia, and it contributed a great deal to the

⁴⁷ United States of America Department of State Archive, "Our Opportunity with India, Secretary Condoleezza Rice (Op-Ed, The Washington Post)", March 13, 2006. <https://2001-2009.state.gov/secretary/rm/2006/63008.htm>.

⁴⁸ Blackwill, "The Future of U.S.-India Relations".

⁴⁹ George Perkovich, "Faulty Promises the U.S.-India Nuclear Deal." Policy Outlook - Carnegie Nonproliferation/South Asia, September 2005. <https://carnegieendowment.org/files/PO21.Perkovich.pdf>.

⁵⁰ Percovich, "Faulty Promises in the U.S.-India Nuclear Deal".

⁵¹ The New York Times, "Chronology: A.Q. Khan", 16 April 2006. <https://www.nytimes.com/2006/04/16/world/asia/chronology-aq-khan.html>.

⁵² Tanveer Khan, "Limited Hard Balancing - Explaining India's Counter Response to Chinese Encirclement", *Journal of Indo-Pacific Affairs*, March 2023, 92-108. https://media.defense.gov/2023/Apr/24/2003205862/-1/-1/1/04-KHAN_FEATURE.PDF/04-KHAN_FEATURE.PDF.

final win-set of the US' two-level interest in the Agreement. Pakistan's cautious but deepening ties with India's adversary, and the US' chief economic rival, China, acted as the ultimate nail in sealing the Agreement.

Critiques of the Two-Level Game Theory

Although Putnam's theory is immensely useful in explaining the momentum of negotiations that led to the Agreement, it falls short on a few accounts.

Fast-Moving Domestic-Level Interests

While the Bush administration did most of the political heavy-lifting to finalize the Agreement, it did so in a haste so that the Agreement was signed shortly before the next administration took over.⁵³ The succeeding Obama administration had a different approach towards India. President Obama was critical of the 123 Agreement, expressing his reservations about the "blank check" offered to India through the waiver.⁵⁴ His calls for an effective "deterrent" against India's nuclear testing is reflected in the debate on the legislation.⁵⁵ Despite President Obama endorsing the Agreement during his term and maintaining favorable relations with New Delhi, the severity of his efforts was not commensurate with that of the Bush Presidency. This is an example of differing domestic-level interests, seeing as the interests changed slightly within a short span of time because of how two successive presidents perceived India.

Uncertainty in Bargaining Tactics

While the US' foreign policy makers are highly-skilled, there are times when personal elements impact the tone of the negotiations.⁵⁶ Contrary to popular belief that

⁵³ Reuters, "Rice Sees U.S.-Indian Nuclear Deal Done by Year End," 27 June 2007. <https://www.reuters.com/article/U.S.-india-usa-nuclear/rice-sees-u-s-indian-nuclear-deal-done-by-year-end-idUSN2742161520070627>.

⁵⁴ Brahma Chellany, "Barack Obama's Legacy Weighs Down U.S.-India Nuclear Deal", Stagecraft and Statecraft, 17 June 2008. <https://chellaney.net/2008/06/17/barack-obamas-legacy-weighs-down-u-s-india-nuclear-deal/>.

⁵⁵ Chellany, "Barack Obama's Legacy Weighs Down U.S.-India Nuclear Deal".

⁵⁶ Barbara Keys and Claire Yorke, "Personal and Political Emotions in the Mind of the Diplomat", *Political Psychology* 40, no. 6 (October 14, 2019): 1235–49. <https://doi.org/https://doi.org/10.1111/pops.12628>, 1245.

international negotiations are usually dry exercises, the US/India Agreement was full of “twists and turns”.⁵⁷ At one point, Vice President Dick Cheney is reported to have intervened in the negotiations.⁵⁸ His sudden emergence as an actor was surprising since he had a muted presence in the process up until that point. Uncertainties like these could erode the longevity of predetermined win-sets and impact the outcomes. The involvement of more than a few key actors at the most pivotal points of negotiation and finalization results in the introduction of too many unknowns in the mix, thereby leading to the parties losing their control over expected outcomes. This shows that even if the Two-Level Games help set macro-objectives and functional strategies, the uncertainties can guide the outcomes in a different direction, thus questioning the theory’s efficiency.

Limited control over the domestic policy of other states

The Agreement is an international instrument, which means that it has less primacy in terms of enforcement as compared to India’s domestic laws. During the negotiations, the left-leaning parties in India were in strong opposition to the Agreement for a variety of reasons which culminated in a vote of no-confidence for the Prime Minister’s party.⁵⁹ Although the vote passed in the government’s favor, domestic opposition has the ability to defeat the win-sets of the ruling administration in both the countries and challenge the validity of the theory.

Heterogeneity of Interests

Although the US’ domestic sentiments largely favored positive relations with India, the fact that India was allowed an extremely generous deal was criticized by many.⁶⁰ Issuing concessions to New Delhi on several nonproliferation commitments was hard to digest for prominent hardliners who did not vouch for such aggressive concessions

⁵⁷ Squassoni, “The U.S.’s Catastrophic Nuclear Deal with India: Power Failure”.

⁵⁸ Squassoni, “The U.S.’s Catastrophic Nuclear Deal with India: Power Failure”.

⁵⁹ VOA, “India’s Communist Parties Withdraw Government Support Over U.S. Nuclear Deal,” 1 November 2009. <https://www.voanews.com/a/a-13-2008-07-08-voa20/401994.html>.

⁶⁰ White House Archives, “India Civil Nuclear Cooperation: Responding to Critics”, 8 March 2006. <https://georgewbush-whitehouse.archives.gov/news/releases/2006/03/20060308-3.html>.

to India.⁶¹ In situations like these, where opinions are largely divided, gauging the overall domestic-level interest becomes difficult. It could also be detrimental to the idea of deliberative democracy when the administration decides to govern by executive decree, without considering the opinions of a large section of the population. This is yet another deficiency of the Two-Level Theory because it shows how difficult it is to homogenize the two-level interests into a collective bracket while illustrating their application to policy decisions.

Conclusion

The Two-Level Game Theory presents the idea that government leaders act as the “gatekeepers” and “central actors” in international negotiations.⁶² It is a distinguished theory in foreign policy that seeks to integrate the concepts in comparative politics and elements from international relations. In the present case, we observed that government actors, in their service as chief negotiators, must balance their executive autonomy with the needs of their domestic constituencies. Although the US/India Civil Nuclear Agreement makes for a good case study of the Two-Level Game Theory, there were some elements in the process that were not commensurate with the theory. The difficulty of navigating through fluctuating domestic and foreign interests, the uncertainties of expectations from the key players involved, and the inflexibilities associated with executive command, are all reflective of the limitations of The Two-Level Game Theory. They are also important reminders about not becoming excessively reliant on the theory when it comes to policy execution in the practical realm. We find good evidence of the overlap between favorable domestic attitudes towards India and favorable international momentum at the time, which makes a doctrinal case for understanding the theory. However, the presence of political redundancies, tactical uncertainties in negotiation, and the lack of a standardized metric to ascertain domestic constituencies’ needs, highlights the limitations of Two-Level Game Theory in negotiations of a similar nature. Still, it is beneficial to use the theory as one of many formulae for future policy assessments.

⁶¹ Joel Brinkley, “U.S. Nuclear Deal with India Criticized by G.O.P. in Congress,” October 31, 2005. <https://www.nytimes.com/2005/10/31/politics/U.S.-nuclear-deal-with-india-criticized-by-gop-in-congress.html>.

⁶² Conceição-Heldt and Mello, *Two-Level Games in Foreign Policy Analysis*.

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