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Publisher: Routledge

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## The Nonproliferation Review

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/rnpr20>

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Version of record first published: 05 Nov 2012.

To cite this article: Gerald Felix Warburg (2012): NONPROLIFERATION POLICY CROSSROADS:, The Nonproliferation Review, 19:3, 451-471

To link to this article: <http://dx.doi.org/10.1080/10736700.2012.734191>

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# NONPROLIFERATION POLICY CROSSROADS: Lessons Learned from the US-India Nuclear Cooperation Agreement

**Gerald Felix Warburg**

*On October 1, 2008, Congress enacted a proposal that originated with President George W. Bush in 2005 to approve an unprecedented nuclear trade pact with India by removing a central pillar of US nonproliferation policy. Despite the numerous political challenges confronting the Bush administration, the initiative won strong bipartisan support, including votes from Democratic Senators Joseph Biden, Hillary Clinton, and Barack Obama. The four-year struggle to pass the controversial US-India nuclear trade agreement offers an exceptionally valuable case study. It demonstrates a classic tradeoff between the pursuit of broad multilateral goals such as nuclear nonproliferation and advancement of a specific bilateral relationship. It reveals enduring fault lines in executive branch relations with Congress. It vividly portrays challenges confronting proponents of a strong nonproliferation regime. This article is based on an analysis of the negotiating record and congressional deliberations, including interviews with key participants. It assesses the lessons learned and focuses on three principal questions: how did the agreement seek to advance US national security interests?; what were the essential elements of the prolonged state-of-the-art lobbying campaign to win approval from skeptics in Congress?; and what are the agreement's actual benefits—and costs—to future US nonproliferation efforts?*

**KEYWORDS:** India; United States; nuclear power; Treaty on the Non-Proliferation of Nuclear Weapons; Nuclear Suppliers Group

Irony abounds in the story of how the George W. Bush administration realized its improbable 2008 victory in securing final congressional approval of the US-India Civil Nuclear Cooperation Initiative. The accord represented a diplomatic coup for Indian Prime Minister Manmohan Singh, granting *de facto* recognition to India's status as a nuclear weapon power and ending New Delhi's three decades as a pariah on nuclear proliferation issues. For Washington, the concessions on nuclear nonproliferation, made expressly to pursue a new strategic relationship with India, constituted, as a leading journalist noted, "one of the boldest initiatives ever launched by a secretary of state . . . nothing less than a repudiation of three decades of U.S. policy."<sup>1</sup> At the elaborate White House signing ceremony, President Bush shared credit with an emergent Indian-American lobby. Also applauding at the October 8, 2008 event were representatives from General Electric and

*Nonproliferation Review, Vol. 19, No. 3, November 2012*

ISSN 1073-6700 print/ISSN 1746-1766 online/12/030451-21

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<http://dx.doi.org/10.1080/10736700.2012.734191>

Westinghouse, eager to secure US nuclear sales to India, touted as having a potential value as high as \$150 billion.<sup>2</sup>

Critics concluded that the revolutionary pact “fundamentally reverses half a century of U.S. nonproliferation efforts, undermines attempts to prevent states like Iran and North Korea from acquiring nuclear weapons, and potentially contributes to an arms race in Asia.”<sup>3</sup> Opponents maintained that the deal violated essential congressional requirements, failed to restrain India’s nuclear weapons program, and appeared as “an unprincipled naked grab for lucrative trade and geopolitical advantage.”<sup>4</sup>

The precedents set by the US-India deal were soon tested. Pakistan sought similar nonproliferation exceptions from Washington, and then contracted to import nuclear reactors from the Chinese.<sup>5</sup> Iranian negotiators cited India’s special treatment in resisting UN sanctions on their nuclear program, while some nonaligned powers have also charged the agreement constitutes a clear double standard employed by the United States.<sup>6</sup> Japan and Australia debated whether to maintain their own, now eroded, policies prohibiting cooperation with India, justified because New Delhi continued to reject full-scope International Atomic Energy Agency (IAEA) safeguards.

The May 18, 1974 Indian nuclear explosion was the single event, more than any other, that gave rise to a series of congressional initiatives to tighten international export controls, controls weakened by the US-India nuclear agreement completed in 2008. The two events serve as bookends for a generation of nonproliferation laws. It is thus crucial to assess lessons learned from recent US-India nuclear cooperation. Seven years after outlines of the deal were first advanced is a fair distance from which to begin assessing the wisdom and consequences of this US initiative. This article evaluates the results, first through the lens of history, assessing the significance of precedents set. Second, it asks how the Bush administration sold the accord—and why a skeptical Congress approved it. Third, it evaluates the outcome, addressing the bottom line question: “Was it a good idea?”

### **Precedents: US-India Nuclear Relations**

Many US nonproliferation efforts have been designed specifically to thwart the nuclear ambitions of emerging powers such as India. The conflict over nuclear policy accelerated after India’s use of civil nuclear assistance from the United States and Canada in the 1950s to clandestinely develop nuclear explosives. It persists with India’s present position as a nuclear-armed nation that rejects the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). India’s recent emergence as a valued US ally in South Asia—and an important trading partner with growing military connections to the United States—has put substantial pressure on decades-old US nonproliferation policies. These were embodied in statutes many believe are now dated.

Policy history is crucial here: in an effort to woo leaders of newly-independent India, the United States sent 21 tons of heavy water in 1956, while Canada provided reactor technology.<sup>7</sup> India’s subsequent detonation of a nuclear device violated, spectacularly, the basic principle of Atoms For Peace, the policy first defined by President Dwight D.

Eisenhower in 1953 that committed the United States to sharing nuclear technology, materials, and know-how for peaceful purposes. India's action remains the most egregious abuse of peaceful nuclear assistance. President Richard M. Nixon's emissaries had explicitly warned India against diversion of US nuclear energy assistance for a weapons program.<sup>8</sup> US-India relations had been poor for some time, as a consequence of the tepid US response to Chinese border clashes with India, India's role in the dismemberment of Pakistan, as well as the close relations non-aligned leaders in New Delhi were developing with Moscow. India's May 18, 1974 test froze in place a breach with Washington that lasted thirty years and spurred sweeping nuclear export reforms in Washington.

These initiatives included efforts led by Representative Jonathan Bingham (Democrat of New York) to abolish the exceptionally powerful Joint Committee on Atomic Energy that championed nuclear exports; in 1976, Congress scattered its jurisdiction to several panels led by skeptics of unfettered nuclear commerce.<sup>9</sup> Legislators such as Senator John Glenn (Democrat of Ohio) and Bingham cited Indian abuse of US nuclear assistance as a central rationale for enactment of the 1978 Nuclear Non-Proliferation Act (NNPA) that tightened Atomic Energy Act (AEA) standards for US trade. The NNPA required states seeking US nuclear technology to first accept IAEA inspection of *all* nuclear materials.<sup>10</sup> The measure exhorted nuclear suppliers to exercise restraint, even as they competed for export markets. Nations were discouraged from incentivizing sales by waiving full-scope safeguards requirements or sweetening reactor offers by including the export of weapons-usable technologies.<sup>11</sup>

The 1974 Indian nuclear test proved to be the first of a series of blows to nuclear export markets. Until then, American companies had cornered nearly 90 percent of the market for reactor exports. Foreign competition to adopt least-common-denominator standards was accelerating. To win reactor sales, the French and the West Germans had proposed to include sensitive enrichment and reprocessing facilities capable of producing weapons-grade nuclear material. Surging oil prices and doubts about the reliability of uranium supplies also created pressures to develop fuels based on weapons-usable plutonium.<sup>12</sup> By the 1980s, new orders for US-built power reactors fell due to a number of reasons, including soaring interest rates and construction costs for such capital-intensive plants, plunging growth rates for energy demand after the 1973 Middle East oil price shocks, the 1979 Three Mile Island accident, the failure to resolve reactor waste disposal issues, and the growth of anti-nuclear nongovernmental organizations (NGOs).<sup>13</sup>

Through subsequent decades, India's nuclear program colored *all* aspects of its relations with the United States. While some US allies, including Israel, enjoyed strong Washington relations despite their nuclear ambitions, the Indian psyche was deeply scarred by NNPA and by Nuclear Suppliers Group (NSG) restrictions requiring technologically advanced nations to deny India assistance. For India, post-colonial sensitivities remained a prominent dimension of their national identity; they had no sympathy for the nonproliferation zeal of Washington.<sup>14</sup> The Indian nuclear test also predictably produced a nuclear arms race on the subcontinent, accelerating Pakistan's nuclear weapons program, and ultimately climaxing in a series of Indian and Pakistani nuclear tests in 1998.<sup>15</sup> Subsequently, efforts by the Clinton administration to restore dialogue with New Delhi

served only to underscore India's insistence that it receive nondiscriminatory treatment as a nuclear weapon state.

President George W. Bush was determined to engage India on new terms. As his key international strategist, Secretary of State Condoleezza Rice argued that the US-India nuclear dispute had produced for a generation "a bedeviled relationship, a structural ambivalence between the world's leading democracy and the world's largest democracy."<sup>16</sup> Bush acted not just because he was encouraged by Rice and other senior advisors to view India as a democratic counterweight to growing Chinese power, but also because the "global war on terror," launched in the fall of 2001, gave new urgency to the US search for allies in South Asia.<sup>17</sup> The genesis of the Bush initiative can be traced back to 2001, when State Department officials—including Counselor Philip D. Zelikow, US Ambassador to India Robert D. Blackwill, and Senior Adviser to the Under Secretary of State for Political Affairs Ashley J. Tellis—outlined in considerable detail the potential benefits of a robust nuclear-armed democratic ally for the United States in South Asia.<sup>18</sup> Also important was the need for US diplomats to have something to offer an anxious New Delhi government after Rice told Pakistan the United States would provide Islamabad advanced fighter planes, as one consequence of US-Pakistan cooperation after the September 11, 2001 attacks. (Rice later wryly observed that India and Pakistan had become "linked as the poster children for crimes against the non-proliferation regime.")<sup>19</sup> Noteworthy in this history is the fact that few US strategists argued rapprochement with India would bring substantial nonproliferation benefits. More than a generation after India's 1974 test, the needs of *realpolitik* spurred President Bush's determination to build a stronger US alliance with India despite the consequent costs to nonproliferation efforts.

The emerging proposal advanced by the White House in 2005 was quite simple in its central elements. The United States would agree to division of the Indian nuclear complex and engage in routine commerce with the segregated civilian program, which would be placed under IAEA inspection, while accepting the continuation of the un-inspected Indian military program. In return, India would endorse NSG export controls and offer private pledges to refrain from further testing of nuclear explosives. India would become a *de facto* nuclear power even though it had tested—after the NPT came into force—nuclear explosives developed from "peaceful" international assistance.

Beginning in 2005, critics maintained that a weak US-India nuclear accord could harm nonproliferation efforts by exalting selective nonenforcement. They also worried that US concessions might reward India merely for endorsing export standards all responsible NSG members adopted—and which India has long adhered to as a matter of national self-interest.<sup>20</sup> Renewed international nuclear trade with India also threatened to allot a greater share of limited Indian uranium supplies for its military program, as Indian proponents publicly noted.<sup>21</sup>

### The New Bush-Rice Approach

The case of the turbulent US-India nuclear relationship offers a stark illustration of how general multilateral causes, such as nuclear nonproliferation, are often sacrificed to the

specific requirements of bilateral diplomacy. By 2005, President Bush felt an acute need to create a “strategic partnership” with India as his administration struggled to maintain international support for prolonged, controversial military engagements in Iraq and Afghanistan.<sup>22</sup> Competing policy-making factions in the executive and legislative branches created tense dichotomies between the sober calculation of the State Department and the ideological passions of veteran arms control advocates—the latter of which Rice would deride as the “high priests of non-proliferation.”<sup>23</sup>

Rice aggressively advocated the transformation of US-India relations. Yet it also became, by 2005, a presidential initiative. President Bush pushed his negotiating team hard both before and after the July 2005 summit with Indian leaders. “How are we coming on India?” President Bush would ask Rice with some frequency during his second term, even at meetings unrelated to South Asia.<sup>24</sup> The fact that political elites in Washington were skeptical may, in fact, have made the risky endeavor more attractive to the notably contrarian president. Bush welcomed the chance to try a different diplomatic approach, a “game-changer,” from time to time. Bush led a team staffed by numerous skeptics of multilateral arms control efforts that his predecessors had embraced. Furthermore, in the vigorous Indian democracy, Bush could see both a poster child for his “democracy initiative,” as well as a potential counterweight to China.<sup>25</sup>

Rice personalized the negotiations; after they stalled in July 2005, she declared she “wasn’t ready to surrender.”<sup>26</sup> She pressed Prime Minister Singh directly in a July 18 breakfast meeting at the Willard Hotel in Washington, DC, successfully reopening talks, which yielded further US concessions. In defending the agreement before Congress, Rice would later declare conclusively, “President Bush has made his choice, and it is the correct one.”<sup>27</sup>

The White House team gave Indian negotiators what Singh wanted during key bilateral discussions on July 18, 2005. Under acute time pressures—with summit discussions proceeding in the Oval Office even as staff negotiators were deadlocked in the nearby Roosevelt Room—Indian negotiators pressed their US counterparts. According to former senior Bush administration officials, the Indians reportedly insisted, “We need more if we are to sell this deal back home.”<sup>28</sup> The more the Indians pushed, the more the US team backpedaled. “The Indians were incredibly greedy that day. They were getting 99 percent of what they asked for,” one senior US negotiator conceded to the *Washington Post*, “and still they pushed for 100.”<sup>29</sup> The Indians rejected an explicit no explosion pledge, reserved numerous facilities as military—off-limits to IAEA inspectors—and balked at making commitments on securing timely action on liability protection, essential before the US nuclear industry could gain access to the Indian nuclear market. Appraising how badly the US team was out-negotiated, one senior Bush appointee subsequently quipped “it almost makes me glad the Bush team would not sit down with the Iranians or North Korea”—fearing what similar concessions might have ensued.<sup>30</sup>

Why did the US team agree? They relented because President Bush had already made the basic decision to engage India on India’s terms. Bush saw this as a matter of US national interest and an opportunity to build an alliance at a time when the US positions in Iraq, Afghanistan, and Pakistan were suffering increased international isolation and domestic opposition. With the costs of a summit negotiation failure apparent, the

president apparently concluded that the compromise of abstract nonproliferation principles would gain specific commercial and security benefits from alliance with India. Rice sold an agreement to negotiate on favorable terms to the Indian Prime Minister as “a deal of a lifetime,” while Under Secretary of State for Political Affairs Nicholas Burns told India’s foreign minister that “the United States wants to take this thirty-year millstone from around your neck.”<sup>31</sup> The Indians had walked away from the negotiations, but then the United States made an offer so generous that the Indians could not refuse.

Critics maintained that the Bush administration’s push for the deal was driven by President Bush’s quest for a legacy. This was an opinion shared by some skeptical Indian officials. The proposed pact was not popular with opposition politicians in India, yet the Indian negotiators often heard from their US counterparts that “the deal had to be completed while Bush was still in office” and that Bush’s successor might renege on the deal, or be unable to secure final congressional approval.<sup>32</sup>

The Indians had made clear in 2005 that nondiscriminatory acceptance of their status as a nuclear weapon state was required to improve relations with Washington. The post-9/11 dilemmas the United States faced gave the Washington-New Delhi talks new urgency. Prime Minister Singh embraced the US initiative at some risk to his governing coalition. Nationalist critics in Parliament, as well as India’s vocal Communist Party, vigorously opposed India’s renewed ties with Washington, claiming, among other things, that it would lead to violations of Indian sovereignty and nonaligned status.

Just as the 1974 Indian test proved damaging to US nuclear exporters, the Bush administration’s proposal to reopen the India nuclear market represented the best hope in decades for US nuclear sales. Nuclear power advocates also took heart from the Obama administration’s subsequent proposal of billions of dollars in loan guarantees to jump-start domestic nuclear power sales. One express rationale for such initiatives was to reduce carbon emissions and create more “green” jobs in the United States. As a consequence, the effectiveness of nuclear export controls and the durability of nonproliferation standards will now grow markedly in importance.

The accord outlined in July 2005 provided only the framework for an agreement. Before the agreement could take effect, Congress would have to approve waiving numerous conditions in nonproliferation law in a multistep process. The first step in this process yielded the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006, commonly known as the Hyde Act. This measure approved negotiation of a US-India pact that would waive the full-scope IAEA safeguards requirements required by Section 123 of the Atomic Energy Act—while first requiring the president to determine that a number of conditions had been met.

Nearly two years of bilateral negotiations with India followed, along with the alteration of multilateral NSG standards, and a second vote by Congress before the US-India Civil Nuclear Agreement (hereafter referred to as the 123 Agreement) could enter into force. Critical to US hopes of new reactor sales, India would also have to adopt legislation limiting US manufacturers’ liability before nuclear sales could proceed. Each of these developments would ensue at a time of waning popularity for President Bush, demonstrated by the loss of Republican control of both houses of Congress in the fall of

2006, renewed congressional challenges to presidential authority, and heightened US concern about nuclear proliferation in the Iran, Pakistan, and North Korea.

### Keys to the Lobbying Campaign

How did the Bush team assemble support for the proposed deal waiving nonproliferation requirements for the India accord? Bush administration officials decided early in 2006 that they might as well risk everything, given that the lobbying on Capitol Hill would be difficult under any circumstances, considering the sweeping nonproliferation concessions they proposed. Insiders called this element of strategy for dealing with Congress the “big bang” theory.<sup>33</sup> The administration kept congressional leaders in the dark about the details of bilateral negotiations as long as possible. “The agreement had already been made a central part of US foreign policy before we even heard about it,” one congressional nonproliferation expert lamented.<sup>34</sup>

Administration strategists made one false start, attempting to sell Congress a proposal to get final legislative approval for an agreement amending Section 123 of the AEA—even though the terms of the agreement had yet to be negotiated. Critics in Congress assailed the proposal; one Democratic House leader (who ultimately voted for the accord) circulated to his colleagues the *Washington Post* account of the July 2005 summit negotiations as an illustration of how badly the US team had been outmaneuvered.<sup>35</sup> Leaks from internal dissenters in the executive branch fueled congressional opposition. Indeed, it was often the nonproliferation benchmarks for US-India negotiations State Department staff had spelled out—but failed to secure—that became congressional critics’ talking points. In a House International Relations Committee hearing on May 11, 2006, the proposal for blank check approval was criticized by leading Democrats.<sup>36</sup>

Why then did Congress later that year approve the Hyde Act—authorizing conclusion of an agreement—and then, in the fall of 2008, vote overwhelmingly to pass the final 123 Agreement? Many in Congress were restrained; legislators feared that the diplomatic downsides of rejecting an accord with India outweighed the costs of conditionally permitting it to proceed. Most members wanted better relations with India. A move to kill the deal outright would set back US-India relations for another generation. The fact that Indian Prime Minister Singh faced leftist opprobrium in Parliament just for engaging with the United States also became a selling point on Capitol Hill.

The logic cited by the Bush lobbying team in 2006 went beyond the desire to court India as a regional ally. Administration spokespersons addressed congressional critics head on. Asked about pressures to offer the same deal to such unstable nations as Pakistan, officials said the deal set no enduring precedents, arguing that India has never shared nuclear weapons-usable technology and know-how. Pakistan, on the other hand, has the shameful legacy of A.Q. Khan, who notoriously assisted Iran and North Korea’s clandestine nuclear efforts.<sup>37</sup> And what about North Korea and Iran, asked the critics? They are not transparent democracies like India, responded the administration. When Congress asked how weakening critical standards would “enhance” nonproliferation, the Bush team



replied that convincing India, a long-standing nuclear power, to embrace NSG export requirements, would do just that.<sup>38</sup>

Given the tortured history of US-India nuclear relations, the challenges facing the Bush administration in securing legislative approval were formidable. As in many international presidential negotiations, bypassing the foreign policy bureaucracy and keeping Congress ill-informed had short-term benefits and long-term costs. When Democrats won majorities in both the House and the Senate in the November 2006 elections, the gauntlet for approving the accord grew longer, requiring elaborate choreography from New Delhi to Washington.

The campaign to get Capitol Hill support for the India nuclear deal minimized interagency consultation. Internal executive branch skeptics, such as John Bolton, who served as under secretary of state for arms control and international security and later as UN ambassador, were effectively marginalized. Nonproliferation experts within the bureaucracy were excluded from key meetings, or vastly outranked and outnumbered.<sup>39</sup> Few of the US negotiators were well-versed in the history of US nuclear nonproliferation laws. Many of the benchmarks proposed by the State Department staff were not accomplished. As noted above, these same unmet standards were used by members of Congress as arguments against approval of the accord.

The key discussions with Congress were led by Rice, who leaned on Under Secretary Burns and Assistant Secretary of State for Legislative Affairs Jeffrey Bergner. Bergner had served for years under Indiana's Senator Richard Lugar, who was the senior Republican on the Senate Committee on Foreign Relations. This panel was initially viewed as the source of the most significant potential opposition, but Bergner, who had previously been the committee's respected staff director, helped to overcome this.

The lobbying ground game evolved, after the initial setback, into a classic campaign. The State Department team sought first to secure support from congressional leadership, then to isolate critics, and finally to minimize legislated conditions. By the summer of 2006, a consensus began to emerge among key legislators supporting a two-step conditional approval process.

Congress works often via a tacit division of labor. A handful of committee chairs and issue experts can shape options and sway scores of votes, especially on technical security matters.<sup>40</sup> For an issue as complex as US-India nonproliferation policy—one burdened with a long and tortured diplomatic history, but which riled few local constituencies in the US—this phenomenon proved especially true. Accordingly, Bush administration strategists targeted three principal groups of legislators. These included the House and Senate leadership, committee chairs, and senators weighing presidential bids. These tactics proved sound: absent a visible deal opponent, a majority in Congress would likely acquiesce.

The State Department team coordinated advocates from three camps. The first consisted of business leaders. Legislators from states with many potential job benefits were visited by General Electric, Westinghouse, and other nuclear suppliers. Lobbyists cited estimates the pact would produce 27,000 US jobs and \$150 billion in sales.<sup>41</sup> Their case was reinforced by defense and telecommunications lobbyists, eager for new sales to India. Indian industries hosted a series of visits by US congressional delegations.

Washington's largest law/lobbying firm, Patton Boggs, was hired by the US-India Business Council. Robert Blackwill, who left government service in November 2004, soon secured a seven figure annual lobbying retainer for his consulting firm to lobby Congress to approve the accord. Yet State Department strategists deliberately kept Indian lobbyists from Capitol Hill, fearing their enthusiasm would fuel perceptions that US negotiators had been outmaneuvered.<sup>42</sup>

A second group included veteran India hands and respected global strategists. They argued it was time to "get over" the 1974 test because bringing India into the nuclear fold could advance other US security objectives; to do otherwise was "to cling to a futile principle—isolating India as a nonproliferation punishment—unattached to the reality that the United States needed Indian support on a host of global concerns."<sup>43</sup> Better to have India "inside the tent" directing its fire outward, than the reverse.<sup>44</sup> Bush administration officials orchestrated a sustained series of lobbying visits, letters, and phone calls from US foreign policy establishment leaders designed to encourage congressional approval of the US-India accord. Proponents also made significant use of clean energy arguments for nuclear sales to India, noting that India relies on dirty coal for 70 percent of its electricity needs. With Indian demand projected to double by 2030, carbon emissions could grow seven-fold. The latter argument proved successful in converting holdouts, especially Democrats.<sup>45</sup>

The third set of supporters included Indian-American community leaders. A relatively small cohort representing just 2.2 million US citizens, it nevertheless emerged as a reasonably sophisticated, highly-educated, wealthy community just beginning to have an impact. "They were full of good intentions," one senior Bush administration official noted, "but had never done this kind of work before. They were exhilarated; they needed guidance, and they were very helpful."<sup>46</sup> These leaders were steered toward key legislators, stressing US interests in creating a new India relationship. Indian-Americans also hosted substantial fundraisers, including for Senators Richard Lugar, Joseph Biden (Democrat of Delaware), Hillary Clinton (Democrat of New York), and John Kerry (Democrat of Massachusetts).<sup>47</sup>

Also active was the congressional US-India Caucus. Although such caucuses rarely have a significant impact, this one proved effective in mobilizing its 187 members. The Indian-Americans modeled themselves after the aggressive and influential American-Israel Public Affairs Committee. "This is huge," the president of the US-India Business Council declared. "It's the Berlin Wall coming down. It's Nixon in China...the bounty is enormous."<sup>48</sup> As a *Washington Post* profile noted, lobbying for "the nuclear pact brought together an Indian government that is savvier than ever about playing the Washington game, an Indian-American community that is just coming into its own and powerful business interests that see India as perhaps the single biggest money making opportunity of the 21<sup>st</sup> century."<sup>49</sup>

Long-time nonproliferation advocates, such as Representative Edward Markey (Democrat of Massachusetts) and Senator Barbara Boxer (Democrat of California) were unyielding. Opponents maintained that the proposed deal would reward a nation for scoring the NPT while undermining the longstanding international norm requiring full-scope safeguards on nuclear exports to non-nuclear weapon states. Critics pointed out

that commercial interests were being used to justify erosion of nuclear export standards—*precisely* the practice that the NNPA had been designed to inhibit. Skeptics noted that the proposed agreement placed no limits on India building new nuclear explosives. It failed to secure IAEA inspection of many Indian nuclear facilities. It did not cap production of fissile material. Indian facilities left unsafeguarded had the capacity to produce fissile material sufficient for an estimated fifty new nuclear bombs each year.

Nevertheless, other nonproliferation champions, from Senators Biden and Kerry, to Representatives Tom Lantos (Democrat of California) and Howard Berman (Democrat of California), proved receptive. The administration argued that the NNPA had worked for a generation, buying time and reducing the danger that scores of nations—including Brazil, Argentina, Libya, Syria, Iraq, South Africa, and South Korea—might breach the nuclear threshold. Nevertheless, in the post 9/11 world, they maintained, India could be a strategic ally if brought “inside the club.”

Congress’s institutional memory rests with its staff. Thus the State Department faced its toughest questions from experts reporting to successive House Foreign Affairs Committee chairmen, Representatives Henry Hyde (Republican of Illinois), Lantos, and Berman. “Freelancing staffers steeped in esoteric minutiae sought to create insuperable obstacles,” one lobbyist lamented. “They were competing to ask the cleverest questions—all of which missed the central point: the United States *needed* India, and we were better off with India inside the nonproliferation tent than outside.”<sup>50</sup> For the State Department, the most worrisome criticism came from Republicans. Rather than trying directly to block the agreement—and thereby take responsibility for the diplomatic consequences—the House sought, before the 2006 election, to approve the negotiation of an agreement with detailed conditions.<sup>51</sup> This reliance on legislative conditionality is typical of many foreign policy struggles. Congressional leaders are reluctant to stand in front of a fast-moving foreign policy train. On most contentious national security issues, Congress opts for conditionality and delay, not outright rejection.<sup>52</sup> This reality supported State Department officials’ decision to go for the “big bang” rather than a piecemeal approach to rapprochement with India.

Legislators used procedural options to ensure Congress would have a second look at the detailed agreement after it was negotiated. The Hyde Act set benchmarks, including a ban on plutonium extraction from US-supplied material and an explicit termination of nuclear trade if India tested another nuclear weapon, a provision already in the NNPA, but which members insisted be made explicit in the forthcoming agreement text. The Bush team was irked by the Hyde requirement of yet *another* congressional vote—which would come in 2008, after details of the nuclear trade pact were hammered out. Nevertheless, with this key proviso, the Hyde Act received final congressional approval in November 2006 by a vote of 85-12 in the Senate, following a 330-59 vote in favor in the House earlier that July.

With this conditional victory in hand, the US negotiating team worked with India over two long years to write the detailed text of the 123 Agreement. The executive branch used some of the congressional conditions to limit further US concessions to Indian negotiators. However, US diplomats failed to get explicit Indian agreement on several of the conditions set forth in the Hyde Act. Rather, the negotiators finessed central issues

such as approval for India to reprocess US-source fuel and an automatic nuclear trade cut-off in the event of another Indian nuclear explosion, despite the fact that several veteran State Department aides were concerned from the outset by such US concessions.<sup>53</sup> Rice advised Congress of the intent to terminate US supply if India violated its unilateral testing moratorium, but insisted a binding requirement would constitute a "poison pill" certain to kill the agreement. Indeed, it was likely the Indian Parliament, where Prime Minister Singh governed by a fragile coalition, would reject any such requirement, which would be viewed as an infringement on India's sovereignty.

The breakthrough in US-India negotiations to complete the 123 Agreement was achieved in mid-2008; it came only after changes occurred within India's governing coalition. Leftist opponents of the deal in New Delhi, who felt it conceded too much of India's sovereign program to international inspection, abandoned Singh's government. The move freed Singh's hand just when White House aides saw their last chance to conclude the deal on their watch. Racing against both the clock and review requirements set in law, the pact was completed and hurriedly submitted to Congress for final US approval late in the summer of 2008.<sup>54</sup>

Congressional skeptics, including those who had overcome concerns in 2006 to support the Hyde Act, were infuriated by the emerging Bush administration strategy, which proposed getting the forty-five members of the NSG to waive prohibitions against trade with India before Congress approved the US-India agreement.<sup>55</sup> In September 2008, critics focused once again on the agreement's failure to cap India's unsafeguarded production of plutonium, to place the Indian breeder reactor program under IAEA inspection to insure against diversion of weapons-grade fuel to the military program, or to explicitly state US supply would terminate if India tested another nuclear explosive. The 123 Agreement left to New Delhi sole discretion to decide what future facilities would be inspected. It could free India to use its limited domestic uranium reserves for weapons, but it obliged the United States to help secure alternative uranium supplies for India if there was ever a US supply cut-off.<sup>56</sup>

Ironically, even members of Congress concerned about the unfavorable terms conceded the bill now needed to be acted upon quickly. As Chairman Berman noted, after the NSG's members waived in early September multilateral sanctions against nuclear trade with India, Russian and French firms would have an overwhelming competitive advantage. The NSG vote was preceded by a last-ditch effort by critics to slow final approval; Capitol Hill opponents implored such NSG member states as Austria and Ireland to hold out.<sup>57</sup> Once again, an effective and unusually forceful personal effort by Rice prevailed. In her memoir, she recounts her all-night lobbying-by-phone campaign to secure the unanimous NSG vote required.<sup>58</sup> As John Isaacs, a leading Washington nonproliferation advocate, noted, "The Bush administration exerted unprecedented political pressure at the NSG to clinch the deal, including phone calls from US cabinet members to their counterparts during negotiating sessions."<sup>59</sup>

Once the NSG waived restrictions on commercial trade with India's nuclear program, many felt it was incumbent upon Congress to approve the final agreement. Washington-based opponents sought to build a coalition to block passage. However, signatories on a September 19, 2008 letter to Congress assailing the agreement came from

a loosely-organized group of arms control NGOs. It called for delay and renegotiation of terms, noting that the conditions set by Congress in 2006 hadn't been met. Representative Edward Markey's denunciation was far more pointed, declaring on the eve of the September 26 roll call vote in the full House:

With this vote, we are shattering the nonproliferation rules, and the next three countries to march through the broken glass will be Iran, and North Korea, and Pakistan . . . [This] is an absolutely crazy situation for us to be engaging in . . . this deal is ripping [the NPT] foundation up by its roots.<sup>60</sup>

The weaknesses of the agreement that had been negotiated were apparent, even to supporters, but it had the power of momentum—joined with the desire of many exhausted members to get out of Washington and onto the campaign trail. A leading opponent later conceded: "I believe that critics would have accepted the deal if all Indian facilities were opened to international inspections, if there were assurances that India could not use the deal to produce more nuclear weapons [and] if US nuclear cooperation were automatically cut off if India conducts a nuclear test explosion."<sup>61</sup>

Amidst growing voter opposition to the Iraq war and a highly partisan election eve environment, a politically weakened Bush team managed once again to gain overwhelming support in Congress for the India deal. Why? Many legislators felt the Congress had *already* spoken on the issue with the 2006 Hyde Act. Members hate to appear to "flip-flop," and a majority accepted the administration argument that US negotiators had pushed the Indians as far as they could go to meet many of the act's benchmarks. Having already gained the benefits—and weathered modest criticism, for a "yes" vote in 2006—few legislators saw a reason to appear to reverse themselves and vote "no" in 2008. Proponents warned that failure to approve would cause grievous harm to the budding US-India friendship. They argued that a sufficient number of Hyde conditions had been met and that India was on notice that another nuclear test would produce renewed isolation in the international marketplace. Amidst the global financial crisis and the general election campaign, there was much distraction. In its rush to adjourn, as one authoritative analysis concluded, "Congress failed to adequately review the US-India nuclear cooperation agreement."<sup>62</sup>

Democrats had many foreign policy issues to contrast themselves with Republicans. Arms control and nonproliferation concerns were muted in a campaign centered on the economy and Iraq. Congressional support for the India deal came at little cost; opposition risked running afoul of key industries and major political donors. By the fall of 2008, most Democratic leaders had already declared support for the deal; privately some conceded a preference for approval that year, before a new administration arrived to face what would have been a thorny unresolved problem.<sup>63</sup> Thus, the White House was successful in achieving an agreement to secure final congressional approval following the election in November, even as most other White House legislative priorities died. Despite their lame duck status, President Bush and Secretary Rice prevailed upon Democratic leaders to expedite approval. They presented legislators with a *fait accompli* and dared Congress to block it.<sup>64</sup> Ironically, the pressure the Bush negotiating team placed most heavily—and effectively—was not on their Indian interlocutors, but on Congress. All but the most

ardent nonproliferation activists, holdovers from an earlier generation when nuclear arms control activism was a central element of Democrats' worldview, fell silent.

### Outcome: Ironies Abound in the US-India Nuclear Deal

More than seven years have passed since the Bush-Singh summit of July 2005. Many benefits of a new strategic partnership between the United States and India will take decades to develop. Nevertheless, seven years offer sufficient perspective for evaluating the US decision to re-engage India's nuclear program.

Bush officials downplayed the purported nonproliferation benefits of renewing nuclear trade with India; yet they understandably felt they could not speak only of the theoretical geostrategic benefits of closer India ties for fear of appearing to have abandoned nonproliferation concerns. In her testimony before the Senate Foreign Relations Committee in 2006, Secretary Rice delineated potential arms control gains only on page eleven—last among her stated reasons for moving ahead.<sup>65</sup> Similarly, a disconnect occurs in the authorizing legislation: the preamble of the Hyde Act declares that “sustaining the NPT . . . is the keystone of United States nonproliferation policy.” The measure proceeds, however, to provide means to reward India for rejecting the NPT.<sup>66</sup>

How then to evaluate the wisdom of the initiative? The US-India deal was advanced primarily to build ties between two democracies—while trying to *contain* the associated damage to worldwide nonproliferation standards. Rice testified that the Bush administration sought to: “deepen the US-India strategic partnership; enhance energy security; benefit the environment; create opportunities for US business; and enhance the international nuclear nonproliferation regime.”<sup>67</sup> This was a broad US diplomatic initiative that made major nonproliferation concessions in an attempt to realize potential bilateral benefits, including expanded defense and technology trade, cooperation on energy and security issues, and collaboration on antiterrorism initiatives—each of which has, to some degree, occurred.

Against this list of benefits, the challenges created by the US-India deal are numerous. It rewarded India despite its refusal to sign the NPT. This discriminatory double standard codifies a US nonproliferation policy that actually offers two sets of rules—one for friends, one for adversaries. It reversed decades-long US and NSG policies requiring full-scope IAEA inspections as a condition of supply. It rendered India's nuclear weapons program effectively sanctions-proof: India now is part of a global nuclear supply chain. It secured Indian access to international markets for uranium; India now might choose to dedicate scarce domestic uranium supplies to the stockpiling of weapon-grade material.<sup>68</sup>

Irony is ever-present in the US-India nuclear deal case study. Proponents lamented that India had been “isolated” for decades by the NNPA. Yet that was precisely the objective. Isolation of India's nuclear program was the intent of US policy for three decades, the penalty imposed on any nation that would divert peaceful US nuclear assistance for weapons production. Insisting on full-scope IAEA inspections remains the centerpiece of US diplomatic campaigns to impose multilateral sanctions on such nations as Iran and North Korea, crucial efforts weakened by US inconsistency.

Another irony is the fact that while the United States led the controversial effort to remove barriers to nuclear trade with India, other states have been the principal beneficiaries. French and Russian firms have signed lucrative nuclear contracts in India. Because these exports come from state-owned monopolies, no liability limitations are required from India. US nuclear commerce with India has yet to commence, because legislation curbing reactor manufacturers' liability has taken years to work its way through the Indian Parliament, where post-Bhopal fears have made this a major national sovereignty issue.<sup>69</sup> The Indian Parliament has passed a watered-down bill that demonstrably does not meet US manufacturers' concerns.<sup>70</sup> Rice's decision to press for NSG changes helped to get Congress to approve the Bush deal in the short run, but hurt US firms in the long run.

Many arguments made by proponents of the US-India deal proved weak, especially the alleged nonproliferation benefits. Proponents noted that the deal places 65 percent of Indian nuclear reactors under IAEA inspection. Safeguards, however, require 100 percent application to provide any measure of security against military diversion. If India maintains a parallel weapons program, partial "safeguards" are misleading, if not irrelevant. The most serious failure of US negotiators remains their unwillingness to balk, in July 2005 or the summer of 2008, at concluding an unsatisfactory deal by insisting on more effective nonproliferation conditions that would proscribe India's nuclear weapons program.

The most compelling argument for pursuing US-India rapprochement is the disutility of continuing to punish India thirty-five years later for *how* or *when* India entered the "club" of nuclear weapon-capable nations. After the United States developed—and used—nuclear weapons in World War II, several other nations, perceiving existential threats to their survival, followed course. These nations employed a variety of means to develop their own nuclear deterrents. Even "responsible" members of the emergent nuclear club—UN Security Council members with whom the United States worked to contain proliferation—engaged in clandestine proliferation, including France with Israel, and China with Pakistan.<sup>71</sup> With the development of the NPT regime, US policy makers believed national interests required vigilance in blocking *any* new members of the club. Dual standards were inevitable; hypocrisy was an inescapable byproduct. The United States ignored Israel's nuclear weapons and engaged in nuclear commerce with communist China's energy sector, while shunning democratic India—all because of when and how India acquired a weapons capability. In the proponents' view, the US initiative was required to alter this "unhelpful" status quo.

The post-1974 global nonproliferation sanctions regime—designed to deter any others who might follow New Delhi's course—has served many US national security interests. It succeeded in limiting how many nations possess nuclear weapons. It bought time, subjecting would-be proliferators to global opprobrium and allowing for succeeding generations of technology—from satellites to unmanned drones—to mature and assist intelligence monitoring of potential threats.

The Indian decision made four decades ago to violate its peaceful use commitments remains a reprehensible fact. At a certain point, however, international policies must evolve to recognize new realities. The original 2001 thesis of State Department strategists remains accurate: US interests *are* best served by building upon the many common

interests that will drive US and Indian policies in the century ahead. These range from reducing greenhouse gas emissions to collaborating on antiterrorist initiatives, from cooperation on Afghanistan and Pakistan issues to containing the power of a one-party China. Looking at the recent US-India nuclear accord in such a broad diplomatic context clarifies the long-term potential of closer US-India ties.

Consider the rapprochement—as Bush loyalists prefer—as parallel, though not comparable, to more momentous policy reversals of the Cold War era.<sup>72</sup> These include President John F. Kennedy's post-Cuban Missile Crisis opening to the Soviet Union and President Nixon's opening to communist China. Intellectual inconsistencies abound in each case. Some similarities, however, are striking. These patterns are discernible and highly relevant to evaluation of the US-India nuclear deal. In each, the White House kept much of its own foreign affairs bureaucracy—and Congress—in the dark, then presented a *fait accompli* to US legislators. Congressional leaders were confronted by enormous pressure not to reverse a new national course set by the president. The Cuban Missile Crisis underscored the urgency of dialogue with adversaries in Moscow. The United States could not forever maintain the fiction that Beijing did not govern China. So, too, one concludes, US policymakers could not cling forever to the notion that the nations that joined the nuclear club *before* 1970—when the NPT entered into force—would enjoy, in perpetuity, privileges denied to such latecomers as India.

## Conclusion

*Was the pursuit of US-India nuclear rapprochement a good idea?* Yes. It was time to move the US-India relationship into the twenty-first century: painful US nonproliferation concessions were undeniably the cost. Long-term US-India interests on regional and global security issues, on environmental protection, in democracy and antiterrorism, and, indeed, in nuclear nonproliferation—though not necessarily an anti-China condominium—will continue to converge.<sup>73</sup>

*Were US interests well-served by the Bush administration negotiators?* No. Too often Bush and Rice compromised key points without extracting meaningful Indian concessions. Holding out for a more balanced deal would have been a wiser option, though there should be no illusion that all items on the US wish list were achievable.

*Was the Bush administration's strategy well-executed in Washington?* Yes. After a false start—with the brazen proposal that Congress give final approval to a pact not yet negotiated—the Bush administration team got the job done. Secretary Rice coordinated a complex, multiplayer lobbying campaign that offers a case study in tough, unrelenting, and effective policy advocacy.

*Were the promised commercial benefits realized in a timely fashion?* No. More than seven years later, US companies have not completed a single reactor sale to India. True, US military exports to India have grown to nearly \$10 billion and commercial deals have been



concluded for telecommunications and aviation exports. Hopes remain for future US nuclear sales, which are still often discussed in bilateral communiqués.

*Was the agreement a net plus for nonproliferation?* No. It eroded standards without securing sufficient parallel benefits. Bush administration officials did not press Congress to approve the agreement on primarily nonproliferation grounds, and they were reluctant to justify the accord on any basis other than improving prospects for long-term diplomatic and security cooperation. But claiming that “safeguards” applied to 65 percent of India’s facilities is as meaningful as “limiting” a household’s weaponry to machine guns in the attic and basement: what is not proscribed remains lethal.

It is easy for scholars and policymakers who have championed nonproliferation standards to find the terms of the US-India agreement wanting. Yet, the diplomatic opening the pact facilitated shouldn’t be dismissed for what it does *not* do. Critics lament US negotiators’ failure to extract Indian support for the NPT, the Comprehensive Nuclear-Test-Ban Treaty (CTBT), or for full-scope IAEA safeguards on the Indian nuclear program. Yet some of these goals were not going to be accepted by Indian negotiators, who had to answer to their own domestic opponents.

Effective diplomacy requires the wisdom to know when to change course. Intellectual consistency can indeed become, as philosopher Ralph Waldo Emerson warned, the “hobgoblin of little minds.” US leaders reached out to the Soviet Union at the height of the Cold War. The United States moved grudgingly, more than fifteen years after departing from Vietnam, to restore bilateral trade ties—despite the fact that wrenching prisoner of war issues had not been resolved. Many US policymakers have recently advocated an end to the fifty-year-old ban on commerce with Cuba, a policy that regularly puts the United States on the losing end of UN General Assembly votes with 180-3 margins. An eye toward future opportunities required similar realism in considering ways to strengthen US-India ties. That is why one can conclude that US-India rapprochement remains a good idea, but one burdened by flawed negotiations poorly pursued and explained by a US team working under self-imposed deadlines.

A final irony arises from this sober conclusion, one that should serve as a caution to future policymakers. The US-India nuclear deal was pressed by an administration staffed by members of a neoconservative school who embrace unilateralism. “Neo-cons” spent the better part of the past decade scorning multilateral diplomatic initiatives—from the CTBT, to the Anti-Ballistic Missile Treaty, to efforts to combat climate change. Yet it is often international norms the US cites when seeking multilateral support of US national interests. From the Gulf War to the Iraq War, the response to 9/11 to military strikes in Afghanistan and Pakistan, the efforts to block North Korea’s nuclear program, and sanctions against Iran, US leaders repeatedly justified international actions with agreed principles of acceptable international behavior.

Those who diminish the NPT complain that some signatories have cheated. This argument misses the point. It was *in response* to such cheating that multilateral sanctions have been applied. Isolation of miscreants has helped in several cases. Libya abandoned its weapons of mass destruction (WMD) program under international pressure. Isolation of

Iraq over its alleged nuclear weapons efforts was central to the Bush Administration case in building international support for sanctions. Pressing respect of nonproliferation norms has proved in many cases a viable alternative to preventive war or diplomatic capitulation.

Today, global nuclear nonproliferation efforts are at a crossroads. The failure of the United States to find the alleged WMD stockpiles used to justify the invasion of Iraq constituted one blow. Another came with the NSG's waive of full-scope safeguards as a standard for bilateral nuclear commerce in order to facilitate US interests with India. Dangers posed by increasing carbon emissions now create intense pressure to expand nuclear trade. Even in the wake of the March 2011 Fukushima disaster in Japan, dozens of nations are pursuing nuclear technology for the first time. New burdens are being placed on the global nonproliferation regime just as a central pillar has been weakened. The US-India deal has surely heightened the importance of shoring up the foundations.

Advancing relations between the world's most populous democracy and the world's most powerful democracy made US compromise with India desirable. A tactical nonproliferation retreat by US diplomats was necessary to secure long-term objectives to strengthen bilateral ties. But in the rush to negotiate the accord and secure final congressional approval of the agreement before the end of President George W. Bush's second term, US diplomats and lawmakers failed to secure solid terms and reliable conditions. The flawed US-India nuclear accord became, regrettably, the embodiment of worthy hopes for closer US-India ties. A vote in Congress to reject the agreement became equivalent to rejecting the promise for strengthened bilateral cooperation. As a consequence, the accord has weakened essential nonproliferation standards without yet establishing diplomatic gains sufficient to justify the risks incurred. The initiative was a worthy idea, poorly executed.

## NOTES

1. Glenn Kessler, "India Nuclear Deal May Face Hard Sell," *Washington Post*, April 3, 2006, p. 1, and Glenn Kessler, *The Confidante: Condoleezza Rice and the Creation of the Bush Legacy* (New York, NY: St Martin's, 2007), p. 49.
2. President Bush declared, "I appreciate the work of Indian-Americans across the nation." <[georgewbush-whitehouse.archives.gov/news/releases/2008/10/20081008-4.html](http://georgewbush-whitehouse.archives.gov/news/releases/2008/10/20081008-4.html)>.
3. Jayshree Bajoria and Esther Pan, "The U.S.-India Nuclear Deal," Council on Foreign Relations, updated November 5, 2010, <[www.cfr.org/india/us-india-nuclear-deal/p9663](http://www.cfr.org/india/us-india-nuclear-deal/p9663)>.
4. Leonard Weiss, "U.S.-India Nuclear Cooperation: Better Later than Sooner," *Nonproliferation Review* 14 (November 2007), p. 453.
5. Howard LaFranchi, "US Objects to China-Pakistan Nuclear Deal. Hypocritical?" *The Christian Science Monitor*, June 16, 2010, <[www.csmonitor.com/USA/Foreign-Policy/2010/0616/US-objects-to-China-Pakistan-nuclear-deal.-Hypocritical](http://www.csmonitor.com/USA/Foreign-Policy/2010/0616/US-objects-to-China-Pakistan-nuclear-deal.-Hypocritical)>.
6. As a senior Iranian official declared, "[W]hat the Americans are doing is a double standard. On the one hand, they are depriving an NPT member [Iran] from having peaceful technology, but at the same time they are cooperating with India, which is not a member of the NPT, to their own advantage." See Simon Tisdall, "Tehran accuses US of nuclear double standard," *Guardian*, July 27, 2005, <[www.guardian.co.uk/world/2005/jul/28/iran.usa](http://www.guardian.co.uk/world/2005/jul/28/iran.usa)>.
7. The Indians used some 21 tons of US-supplied heavy water and a Canadian-US (CIRUS) reactor imported in the mid-1950s in their illicit nuclear weapons program.
8. See prepared statement of Senator Alan Cranston for the Senate Committee on Foreign Relations hearing on "Tarapur Nuclear Fuel Export Issue," 96th Cong., 2nd sess. June 18-19, 1980, p. 8.

9. Bingham's ploy required only majority support in the House Democratic Caucus to bar referral of any legislation to the Committee. See Edward Cowan, "Joint Atomic Panel Stripped of Power," *New York Times*, January 5, 1977, p. 16.
10. The NNPA followed the discriminatory NPT notion of "grandfathering" existing nuclear weapons states and permitting unsafeguarded military programs in those nations. The independent efforts by Senator Glenn and Representative Bingham built upon several legislative proposals, including, in the House, an amendment by Clement Zablocki (Democrat of Wisconsin) and Paul Findley (Republican of Illinois), and various proposals by Senators Charles Percy (Republican of Illinois), Abraham Ribicoff (Democrat of Connecticut) and Stuart Symington (Democrat of Missouri).
11. This feature of the NNPA codified the work of the Nuclear Suppliers Group.
12. Sharon Squassoni, "Looking Back: Nuclear Nonproliferation Act of 1978," *Arms Control Today*, December 2008, <[www.armscontrol.org/print/3470](http://www.armscontrol.org/print/3470)>.
13. See Lawrence Wittner, *Confronting the Bomb: A Short History of the World Nuclear Disarmament Movement* (Stanford, CA: Stanford University Press, 2009), pp. 113–77.
14. Weiss argues convincingly that US nonproliferation statutes helped check India's "bomb lobby," especially in the mid-1990s. Weiss, "U.S.-India Nuclear Cooperation," p. 430.
15. The latter was followed by weak US sanctions, then an unsuccessful Clinton administration regional initiative to engage India, as well as Pakistan. See Saroj Bishoyi, "India-US High Technology Cooperation: Moving Forward," Institute for Defence Studies and Analyses, February 16, 2011, <[idsa.in/idsacomments/IndiaUSHighTechnologyCooperationMovingForward\\_sbishoyi\\_160211](http://idsa.in/idsacomments/IndiaUSHighTechnologyCooperationMovingForward_sbishoyi_160211)>.
16. Prepared statement of Secretary of State Condoleezza Rice for the Senate Committee on Foreign Relations hearing, "United States-India Peaceful Atomic Energy Cooperation: The Indian Separation Plan and the Administration's Legislative Proposal," 109th Cong., 2nd sess., April 5, 2006, reprinted in Senate Committee on Foreign Relations, "United States-India Peaceful Atomic Energy Cooperation and U.S. Additional Protocol Implementation Act," Report 109-288, July 20, 2006, p. 110, <[www.gpo.gov/fdsys/pkg/CRPT-109srpt288/pdf/CRPT-109srpt288.pdf](http://www.gpo.gov/fdsys/pkg/CRPT-109srpt288/pdf/CRPT-109srpt288.pdf)>.
17. Rice insists in her voluminous memoir that seeking a counterweight to China was not the principal motivating factor. See Condoleezza Rice, *No Higher Honor: A Memoir of My Years in Washington* (New York, NY: Crown Publishing Group, 2011), p. 436.
18. Tellis is widely credited with focusing most intently at the State Department on the benefits of improving ties with India. See Ashley J. Tellis, "India as a New Global Power: An Action Agenda for the United States," Carnegie Endowment for International Peace, July 2005, <[carnegieendowment.org/files/CEIP\\_India\\_strategy\\_2006.FINAL.pdf](http://carnegieendowment.org/files/CEIP_India_strategy_2006.FINAL.pdf)>.
19. Rice, *No Higher Honor*, p. 437.
20. George Perkovich, "Global Implications of the U.S.-India Deal," *Daedalus* 139 (Winter 2010), pp. 20–31.
21. See for example, K. Subrahmanyam, "India and the Nuclear Deal," *Times of India*, December 12, 2005, <[articles.timesofindia.indiatimes.com/2005-12-12/edit-page/27856485\\_1\\_nuclear-energy-nuclear-power-nuclear-deal](http://articles.timesofindia.indiatimes.com/2005-12-12/edit-page/27856485_1_nuclear-energy-nuclear-power-nuclear-deal)>.
22. Scholars note that Congress tends to champion the former, while the executive branch—especially the State Department—supports the latter. See Stanley J. Heginbotham, "Dateline Washington: The Rules of the Games," *Foreign Policy* 53 (Winter 1983–84), p. 157.
23. Rice, *No Higher Honor*, p. 437.
24. Former State Department official, personal interview with author, Washington, DC, July 10, 2010.
25. The attraction of "game-changer" moves are discussed throughout George W. Bush, *Decision Points* (New York, NY: Crown Publishing Group, 2010).
26. Rice, *No Higher Honor*, p. 439.
27. Prepared statement of Secretary of State Condoleezza Rice for the Senate Committee on Foreign Relations hearing, "United States-India Peaceful Atomic Energy Cooperation: The Indian Separation Plan and the Administration's Legislative Proposal."
28. As described by former senior State Department and intelligence community officials, personal interviews with author, Washington, DC, July 8, 2010.
29. Kessler, "India Nuclear Deal May Face Hard Sell."
30. Former senior State Department and intelligence community officials, personal interviews with author, Washington, DC, August 10, 2010.
31. Rice, *No Higher Honor*, p. 439.

32. John Newhouse, "Diplomacy, Inc.: The Influence of Lobbies on U.S. Foreign Policy," *Foreign Affairs* 88 (May–June/2009), pp. 73–92.
33. Kessler, *The Confidante*, p. 55.
34. House of Representatives Committee on International Relations, majority and minority staffers, personal interviews with author, Washington, DC, July 21, 2010.
35. Representative Howard Berman, "The U.S.-India Nuclear Deal: Striking the Right Balance," May 8, 2006, <[www.house.gov/list/speech/ca28\\_berman/India\\_nuke.shtml](http://www.house.gov/list/speech/ca28_berman/India_nuke.shtml)>.
36. See, for example, United News of India, "Democrats Spearhead Opposition to U.S.-India Nuclear Deal," May 12, 2006, <[news.oneindia.in/2006/05/12/democrats-spearhead-opposition-to-us-india-nuclear-deal-1147421922.html](http://news.oneindia.in/2006/05/12/democrats-spearhead-opposition-to-us-india-nuclear-deal-1147421922.html)>.
37. According to House staffers, then-Chairman Tom Lantos (Democrat of California) insisted that India set "a precedent of one," noting that there is no other democracy with nearly one billion citizens seeking a nuclear deterrent.
38. One maneuver backfired: the State Department failed to respond to pointed congressional inquiries about alleged Indian cooperation with Iranian missile programs until hours before a key vote. Representative Henry Hyde (Republican of Illinois) was so incensed that he initially sought a criminal investigation of the failure to meet its legal obligation to keep Congress "fully and currently informed."
39. House of Representatives Committee on International Relations, majority and minority staffers, personal interviews with author, Washington, DC, July 21, 2010.
40. See Gerald Warburg, "Congress: Checking Presidential Power," in Roger Z. George and Harvey Rishikof, eds., *The National Security Enterprise: Navigating the Labyrinth* (Washington, DC: Georgetown University Press, 2011), p. 233.
41. J. Sri Raman, "The U.S.-India nuclear deal—one year later," *Bulletin of the Atomic Scientists*, October 1, 2009, <[www.thebulletin.org/web-edition/features/the-us-india-nuclear-deal-one-year-later](http://www.thebulletin.org/web-edition/features/the-us-india-nuclear-deal-one-year-later)>.
42. Former State Department official, personal interview with author, Washington, DC, July 10, 2010.
43. Remarks by Dr. Jeffrey Bergner at University of Virginia Frank Batten School of Leadership and Public Policy Forum, November 10, 2011.
44. Effectively pressing this point was former US Ambassador to India Robert Blackwill, on retainer at the lobbying firm, BGR Group. A veteran nonproliferation policy maker noted that Blackwill and colleagues "argued that the rule preventing India from getting United States nuclear technology was an artifact of an earlier epoch, which no longer was relevant." See Leonard S. Spector, interview by Bernard Gwertzman, "Symbolism Tops Substance in US-India Nuclear Agreement," Council on Foreign Relations, July 15, 2008, <[www.cfr.org/india/symbolism-tops-substance-us-india-nuclear-agreement/p168033](http://www.cfr.org/india/symbolism-tops-substance-us-india-nuclear-agreement/p168033)>.
45. Data cited from the US Energy Information Agency, as quoted in Richard Dobb, "Key Cities," *Foreign Policy* 91 (September/October 2010), p. 134.
46. Former senior State Department and intelligence community officials, personal interviews with author, July 8, 2010.
47. See Newhouse, "Diplomacy, Inc."
48. Mira Kamdar, "Forget the Israel Lobby. The Hill's Next Big Player is Made in India," *Washington Post*, September 30, 2007, <[www.washingtonpost.com/wp-dyn/content/article/2007/09/28/AR2007092801350.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/09/28/AR2007092801350.html)>.
49. *Ibid.*
50. Senior Bush administration State Department official, personal interview with author, Washington, DC, July 6, 2010.
51. Former State Department official, personal interview with author, Washington, DC, July 10, 2010.
52. Consider for example, congressional consideration of the Taiwan Relations Act, the Panama Canal treaties of 1977, and the 2002 vote authorizing the use of force against Iraq.
53. See Fred McGoldrick, Harold Bengelsdorf, and Lawrence Scheinman, "The U.S.-India Nuclear Deal: Taking Stock," *Arms Control Today*, October 2005, pp. 6-12.
54. Under the NNPA, proposed agreements must be provided to Congress sixty days before voting, a requirement that was waived in the September 2008 legislation approving the US-India nuclear cooperation agreement.

55. Rep. Berman blasted the strategy as “incomprehensible” in an August 5, 2008 letter to Rice, see <[www.carnegieendowment.org/files/Berman\\_NSG\\_letter\\_to\\_Rice20080805.pdf](http://www.carnegieendowment.org/files/Berman_NSG_letter_to_Rice20080805.pdf)>. Remarkably, in recounting these events before a US-Indian industry gathering in Mumbai on September 30, 2011, Principal Deputy Assistant Secretary of State for South and Central Asian Affairs Geoffrey Pyatt reversed the sequence of events, stating that Congress passed the final 123 Agreement *before* the NSG action. See Geoffrey Pyatt, “Taking Stock of the U.S.-India Nuclear Deal,” US Department of State, September 30, 2011, <[www.state.gov/p/sca/rls/rmks/2011/174883.htm](http://www.state.gov/p/sca/rls/rmks/2011/174883.htm)>.
56. See Leonard Weiss, “India and the NPT,” *Strategic Analysis* 34 (March 2010), pp. 255–71.
57. House of Representatives Committee on International Relations, majority and minority staffers, personal interviews with author, Washington, DC, July 21, 2010, and Paul Kerr, “U.S. Nuclear Cooperation with India: Issues for Congress,” Congressional Research Service, November 5, 2009.
58. Rice, *No Higher Honor*, p. 698.
59. John Isaacs, Executive Director, Council for a Livable World, e-mail correspondence with the author, August 28, 2010. See Barry Blechman, et. al., “The U.S.-Indian Nuclear Cooperation Agreement: A Bad Deal,” letter to members of Congress, September 19, 2010, from the files of the Council for a Livable World.
60. Statement by Representative Edward Markey to the House of Representatives, September 26, 2008, <[markey.house.gov/press-release/sep-26-2008-markey-breaking-nuclear-rules-india](http://markey.house.gov/press-release/sep-26-2008-markey-breaking-nuclear-rules-india)>.
61. E-mail correspondence with John Isaacs.
62. Squassoni, “Looking Back: Nuclear Nonproliferation Act of 1978.”
63. Senate Foreign Relations committee staffers, personal interviews with author, Washington, DC, July 21, 2010.
64. Ironically, members of Congress supporting a strong NNPA in 1978 employed similar brinkmanship against the executive branch. After a tough draft of the NNPA passed the House of Representatives in 1977, industry lobbyists, working with State Department lawyers, convinced senators to open a number of issues for compromise in an anticipated House-Senate conference. Those pushing less stringent export controls hoped to wrest control from Senator Glenn over the Senate conference delegation. But Representative Bingham outmaneuvered them; he convinced House leaders to adopt the Senate version of the bill, which was developed independently by Senators Percy and Glenn, by voice vote, thus bypassing conference. The Carter administration was presented a *fait accompli* on a take-it-or-leave-it basis. President Jimmy Carter signed the bill, while taking written exception to several of the stronger provisions.
65. Prepared statement of Secretary of State Condoleezza Rice for the Senate Committee on Foreign Relations hearing, “United States-India Peaceful Atomic Energy Cooperation: The Indian Separation Plan and the Administration’s Legislative Proposal,” 109th Cong., 2nd sess., April 5, 2006, reprinted in Senate Committee on Foreign Relations, “United States-India Peaceful Atomic Energy Cooperation and U.S. Additional Protocol Implementation Act,” Report 109-288, July 20, 2006, p. 110, <[www.gpo.gov/fdsys/pkg/CRPT-109srpt288/pdf/CRPT-109srpt288.pdf](http://www.gpo.gov/fdsys/pkg/CRPT-109srpt288/pdf/CRPT-109srpt288.pdf)>.
66. United States-India Nuclear Cooperation Approval and Non-proliferation Enhancement Act, H.R. 5682, p.1.
67. Prepared statement of Secretary of State Condoleezza Rice for the Senate Committee on Foreign Relations hearing, “United States-India Peaceful Atomic Energy Cooperation: The Indian Separation Plan and the Administration’s Legislative Proposal.”
68. Henry Sokolski, executive director of the Nonproliferation Policy Education Center, makes this point in Bajoria, “The US-India Nuclear Deal.”
69. On December 2-3, 1984, a major leak of methyl isocyanate gas and other chemicals from a pesticide plant in Bhopal, India, owned by the Indian subsidiary of Union Carbide, killed more than 2,200 people immediately (and perhaps more than 5,000 others soon thereafter) and injured more than 558,000 people overall. Although Union Carbide and the government of India reached an out of court settlement in 1989 totaling \$470 million in damages, civil and criminal cases seeking additional compensation and punishment for the employees responsible are still pending in US and Indian courts.
70. See B. Muralidhar Reddy, “PM proposes joint group to iron out difficulties for U.S. nuclear suppliers,” *The Hindu*, November 18, 2011, <[www.thehindu.com/news/national/article2638487.ece](http://www.thehindu.com/news/national/article2638487.ece)>. See also Sharon Squassoni, “The US-Indian Deal and Its Impact,” *Arms Control Today*, July/August 2010,

<[www.armscontrol.org/act/2010\\_07-08/squassoni](http://www.armscontrol.org/act/2010_07-08/squassoni)>, and Lisa Curtis, "India's Flawed Nuclear Legislation Leaves U.S.-India Partnership Short," Heritage Foundation, August 31, 2010, <[www.heritage.org/research/reports/2010/08/indias-flawed-nuclear-legislation-leaves-us-india-partnership-short](http://www.heritage.org/research/reports/2010/08/indias-flawed-nuclear-legislation-leaves-us-india-partnership-short)>.

71. On French and Chinese proliferation records, see, for example, Seema Gahlaut, "U.S.-India nuclear deal will strengthen nonproliferation," *PacNet*, No. 37, Pacific Forum CSIS, August 31, 2005, <[csis.org/files/media/csis/pubs/pac0537.pdf](http://csis.org/files/media/csis/pubs/pac0537.pdf)>.
72. Relations with Moscow and Beijing were certainly more crucial than those with India, and it is true New Delhi had few other superpower suitors. Yet the challenges confronting US security interests in the twenty-first century—nuclear arms control in South Asia, greenhouse gases, and terrorism—also involve existential threats.
73. On the limits of a US-India anti-China condominium, see, for example, Harry Harding, "The Evolution of the Strategic Triangle: China, India, and the United States," in Harry Harding and Francine R. Frankel, eds., *The India-China Relationship: What the United States Needs to Know* (New York, NY: Columbia University Press, 2009), pp. 321–50.