

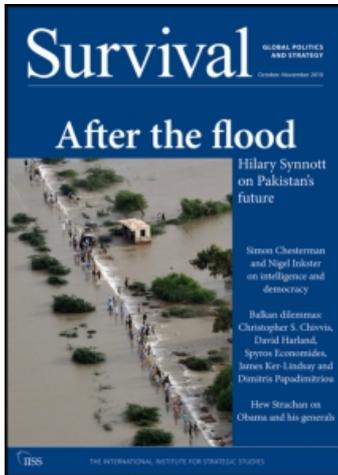
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Access details: Access Details: [subscription number 783016864]

Publisher Routledge

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Survival

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title~content=t713659919>

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To cite this Article Paul, T. V. and Shankar, Mahesh(2007) 'Why the US-India Nuclear Accord is a Good Deal', Survival, 49: 4, 111 – 122

To link to this Article: DOI: 10.1080/00396330701733951

URL: <http://dx.doi.org/10.1080/00396330701733951>

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Why the US–India Nuclear Accord is a Good Deal

T.V. Paul and Mahesh Shankar

The March 2006 US–India nuclear accord, which calls for India to separate its civilian and military nuclear facilities and put the majority of its reactors under international safeguards in exchange for US technological cooperation, has been criticised for its likely adverse effect on the nuclear non-proliferation regime, especially the Nuclear Non-Proliferation Treaty.¹ Without such an accord, however, India, as a rising power, will remain outside the regime and remain less than fully integrated, strategically, politically, economically and technologically, in the international system. An unsatisfied growing power does not augur well for the stability of the system, and such a state is likely to try its utmost to undermine or provoke restructuring of the regime.

There are strong reasons why India should be integrated into the international non-proliferation regime as a nuclear-weapons state. The Non-Proliferation Treaty, as conceived in 1968 and permanently extended in 1995, leaves no room for the recognition of a new, rising power; it freezes the nuclear club at five great-power states² and is designed to prevent challenges to this existing nuclear order. There is no mechanism to integrate a state that developed nuclear weapons after the cut-off date of 1 January 1967, until that state gives them up. By offering a way to integrate a rising power that has remained outside the non-proliferation regime, the US–India agreement will strengthen the regime in the long run, and help shape a peaceful transition of power within the international system.

In the 1960s India, along with a few other states such as Brazil and Argentina, opposed the creation of two classes of states – nuclear and non-

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nuclear – under the treaty, and declined to sign.³ Among all the middle-power opponents, India posed the most trenchant challenge to the non-proliferation regime by conducting a nuclear test in 1974, and a further series of tests in May 1998. India also proceeded to build fuel-cycle facilities and power reactors, without full-scope International Atomic Energy Agency safeguards. As long as India was expected to remain a second-rank power it did not seem to pose a real challenge to the non-proliferation regime, but it is now poised to become the world's third-largest economy, behind the United States and China, in a decade or so.

The Bush administration has taken a pragmatic stance on India's integration in the nuclear order. The administration is driven by both strategic and economic calculations in its bid to create a separate arrangement for India. Strategically, the administration hopes to obtain India's support in a coalition to balance against China. Economically, a large number of US corporations are expected to benefit from the reactor and fuel-supply deals, which may also open up larger economic relations between the two countries in areas such as defence.

Many non-proliferation experts have vociferously opposed the idea of integrating India into the world nuclear order as a nuclear state. They argue the deal will undermine confidence in the non-proliferation regime, set a bad precedent for other states with nuclear ambitions, and could lead to a nuclear arms race in Asia between India and Pakistan, and between India and China. But this misses the bigger picture: integrating India into the current regime, or reconstructing the regime to accommodate India, is likely to benefit rather than hinder the broader goals of international peace and security.

The rise of India

India has always considered itself destined for a major role in international politics. According to Brookings scholar Stephen Cohen, 'unlike the people of other middle powers such as Indonesia, Brazil and Nigeria, Indians believe that their country has both the destiny and an obligation to play a large role on the international stage'.⁴ There are immense constraints to be overcome,⁵ but India seems to be well equipped as a potential great power.⁶

Other than in the area of nuclear weapons, India has not been a text-book challenger. India's behaviour as a quasi-challenger stems from the elite's perception of the country's peculiar power position in the international system. New Delhi has offered consistent opposition to the non-proliferation regime, extended in recent years to the Comprehensive Test Ban Treaty, and actively pursued permanent membership of the UN Security Council.

The timings of previous major changes in the international system were not in India's interests. India missed the boat in 1945 when the permanent membership of the UN Security Council was determined at the San Francisco Conference. Although it was proposed as a permanent member, and the Indian Army had fought as part of the winning coalition, Britain opposed the idea. India missed the boat again in 1968 when the Non-Proliferation Treaty was concluded. Had India tested a nuclear device before 1 January 1967, it would have been considered as a nuclear-weapons state with special privileges under the treaty system and allowed to keep its weapons. It took India another six years to conduct a test, which was then seen as a defiant action by a non-nuclear state. The Indian nuclear programme then went into hibernation due to domestic constraints and fear of international sanctions, but New Delhi accelerated its weapons programme toward the end of the 1980s in the face of challenges from Pakistan. Subsequent events have accelerated India's power capabilities and dissatisfaction with the non-proliferation regime.

India missed the boat in 1945

With limited ability to offer a frontal challenge to the international order, India has in the past attempted to alter the system in its favour in modest ways. India's independence from British colonial rule in 1947 unleashed the collapse of the colonial empires; a large number of states in Asia and Africa emerged as independent nations. Indian Prime Minister Jawaharlal Nehru took the lead in 1955 in organising the Afro-Asian countries into a non-aligned bloc, which challenged the division of the world between East and West. Although by the early 1970s India had gravitated towards Moscow, owing primarily to strategic concerns associated with the strengthening of the US–Pakistani relationship, it continued to publicly espouse a non-aligned stance as a core aspect of its foreign policy. Through the UN system India led a serious challenge to the North–South divide in the economic order, and against the nuclear arms race. It offered other constructive solutions, such as contributing troops to UN peacekeeping in many conflict zones. But India's greatest challenge to the international order was its opposition to the Non-Proliferation Treaty, and later the Comprehensive Test Ban Treaty.

To India, the nuclear tests of 1998 propelled it to the status of not just a nuclear power, but a major global power. Failure to be recognised as such will inevitably lead to dissatisfaction. If not integrated into the nuclear regime as a recognised nuclear-weapons state and a major power, a rising, nuclear-capable India is likely to perceive a discrepancy between its self-image and

its place in the international order. States in this position are susceptible to ultra-nationalist and revisionist tendencies, growing increasingly defiant of a global order which refuses to recognise their claims.⁷ Public opinion and government policy in India tend to become increasingly nationalistic and defiant whenever new restrictions are imposed on its nuclear programme. This was true in the case of the Non-Proliferation Treaty in 1968, the Comprehensive Test Ban Treaty in 1995, and after the 1998 tests at Pokhran. Indeed, theorists use India as a classic example of a 'dissatisfied' state:

India's defense program demonstrates its status as a dissatisfied nation. In 1974, India conducted its first 'peaceful' nuclear tests but it did not press its advantage beyond a refusal to sign the Non-Proliferation Treaty ... in 1998 ... a series of nuclear tests signaled the willingness of the new Hindu leadership to demonstrate national power ... Indian public response to the tests reinforced the impression that India was seeking global great power status and would do so despite international approbation, sanctions ... All these events are classic signs of dissatisfaction.⁸

If no Indian political party or government can compromise unilaterally on India's nuclear capability, it makes sense for the nuclear regime to take India into the fold.

India and the Non-Proliferation Treaty

India's stance has always been against the discriminatory nature of the treaty, rather than the principle of non-proliferation itself. New Delhi has traditionally argued that it will join the treaty as a non-nuclear state only if there is a guarantee that the agreement will involve complete and guaranteed disarmament by the nuclear-weapons state within a set time limit. Immediately after the Pokhran tests, Indian Prime Minister Atal Bihari Vajpayee declared in a statement to parliament that India still wholeheartedly supported the goal of universal nuclear disarmament, but would not disarm until all other nuclear states did so too. In keeping with the traditional rationale for maintaining the nuclear option, the prime minister said that 'at a global level, we see no evidence on the part of the nuclear weapons states to take decisive and irreversible steps in moving towards a nuclear-weapon-free world ... under such circumstances the government was faced with a difficult decision'.⁹

Moreover, India has been a reluctant proliferator, forced to exercise its nuclear option as a response to its security imperatives. Successive regimes

in India followed a policy of keeping the nuclear option open, yet only after the 1964 nuclear tests by China, shortly following the 1962 border war between the two countries, did India seriously consider acquiring its own nuclear capability. The refusal to sign the treaty was a manifestation of its reluctance to forgo the nuclear option, and the 1974 tests signified continued and open defiance of the regime. While often couched in moral and normative terms, India's opposition to the treaty has been primarily shaped by the cementing in place of the five declared nuclear-weapons states as the major powers in the international system, denying India the opportunity to rise to their rank purely because it was a latecomer.¹⁰ India chose its path after struggling with an unequal nuclear order thrust upon it by the great powers that could not allay security concerns arising out of China's nuclear acquisition and China–Pakistan nuclear collaboration.

Although India has posed as a quasi-challenger, and has been defensive of its own nuclear programme, it has never sought to undermine the non-proliferation regime by spreading nuclear weapons, material or technology, despite overtures from countries such as Libya. It is a responsible nuclear-weapons state with a doctrine of no first use and it has repeatedly underscored the reactive nature of its arsenal.¹¹ Such a state ought to be a legitimate part of the global nuclear order. Pakistan, Iran and North Korea, by contrast, are all ideologically and politically revisionist in their respective regions. Iran and North Korea also have intense conflictual relations with the world's leading power. All three are dictatorships, and are susceptible to takeover by radical or fundamentalist individuals or groups. India's behaviour in this regard has been exemplary, and certainly better than that of China, which supplied nuclear materials to Pakistan even after Beijing signed the treaty in 1992.

The Non-Proliferation Treaty is a rigid structure based on the assumption that the permanent members of the UN Security Council, who are also the members of the exclusive nuclear club, would continue to be the only major powers in the nuclear order. Article IX of the treaty defined a nuclear-weapons state as 'one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January, 1967'.¹² There is no room for power transitions – whether through the demise of present powers or the rise of new ones. History suggests that power is never static and the rise and fall of great powers is a periodic occurrence. The treaty, however, neatly divided the world into 'haves' and 'have-nots'. When a major state like India emerges as a new candidate for nuclear-power status, there is no mechanism to integrate it peacefully into the regime as such.

With the extension of the treaty in perpetuity in 1995, moreover, the issue of nuclear disarmament is no longer linked to non-proliferation as far as the nuclear 'haves' are concerned. While the original bargain in 1968 included a promise by the nuclear powers to disarm at a future date,¹³ the 1995 extension of the treaty suggests that non-proliferation is now only about preventing the spread of nuclear weapons to non-nuclear powers. Non-nuclear states, especially rising powers, have little incentive to remain non-nuclear if they perceive their strategic situation requires the acquisition of such weapons. These states will then naturally demand a place in the elite group of nuclear powers.

An earlier dissatisfied power was successfully integrated into the international order. In 1971, US President Richard Nixon's visit to China turned America's containment policy on its head, opting for engagement instead.¹⁴ Acceptance of Beijing's legitimacy and its involvement in multilateral forums, including the United Nations, was expected to help the United States balance against the Soviet Union and move Chinese foreign policy in less revolutionary directions.¹⁵ As a direct result of the increasing socialisation of China into the international order, the 1980s saw radical changes in Beijing's foreign policy,¹⁶ which has, of late, been sufficiently responsible and rule-abiding for China to no longer be deemed a revisionist or non-status quo power.¹⁷ India's grievances with the international community are not in the same league; New Delhi has no fundamental ideological quarrel with the international status quo other than in the nuclear arena.

The US-India accord

The Indo-US joint statement of 18 July 2005 underlined the US administration's commitment to 'full civil nuclear energy co-operation and trade with India ... [and to] seek agreement from Congress to adjust US laws and policies' towards that end. The United States also stated its intention to 'work with friends and allies to adjust international regimes to enable full civil nuclear energy cooperation and trade with India, including but not limited to expeditious consideration of fuel supplies'. This decision signified 'the recognition of India's growing role in enhancing regional and global security ... [and] that international institutions are going to have to adapt to reflect India's central and growing role'.¹⁸

India committed to identifying and separating civilian from military nuclear facilities, placing the former under International Atomic Energy Agency (IAEA) supervised safeguards; maintaining its unilateral moratorium on nuclear testing; working towards the conclusion of a Fissile

Material Cut-Off Treaty; refraining from the transfer of nuclear technology, especially that related to enrichment and reprocessing, to states that do not possess them; and instituting strict export-control regulations with regard to nuclear materials and technology by harmonising legislation with and adhering to the Missile Technology Control Regime and Nuclear Suppliers Group guidelines.¹⁹

A *New York Times* editorial summarised the central criticism of the accord thusly: ‘in trying to give India a special exemption, Mr. Bush is threatening the nonproliferation treaty’s carrot-and-stick approach, which for more than 35 years has dissuaded countries that are capable of building or buying nuclear arms from doing so, from South Korea to Turkey to Saudi Arabia’.²⁰ The deal was viewed by some lawmakers in Washington as ‘a historic failure of this president to tackle the real nuclear threats that we face’.²¹ Proliferation challenges such as Iran and North Korea will become more difficult to deal with as such states highlight the contradictions in how the regime treats different states. Non-proliferation expert Robert Einhorn observes that the Iranians are already questioning why they

should give up their right to enrichment capability while India, which rejected the NPT, is being offered nuclear co-operation. In general, the deal conveys the message that the United States ... is now giving nonproliferation a backseat to other foreign policy goals. And this will give others a green light to assign a higher priority to commercial and political considerations relative to nonproliferation.²²

The critics warn that other nuclear-weapons states may argue for similar deals for their friends and allies. China, for instance, might seek to extend a similar deal to Pakistan, and Russia might do the same for Iran.²³

Critics also argue that Indian commitments as part of the accord are simply a codification of policies India already follows, and therefore do little to bolster the non-proliferation regime.²⁴ The only real change lies in the decision to separate military and civilian and nuclear facilities, an act which is seen as largely symbolic.²⁵ The accord does little to curb India’s ability to continue producing fissile material for nuclear weapons.

These criticisms have some merit, but generally miss the point. The sanctions that have been placed on India for over 30 years have only reinforced India’s opposition to the non-proliferation regime and led it to openly challenge its legitimacy. They have, moreover, delayed India’s rise as a responsible great power but done little to prevent its emergence as a

nuclear-weapons state. They only reinforce India's determination to pursue an independent nuclear deterrent.

New Delhi is thus unlikely to cap its fissile-material stockpile until it is confident it can meet its requirements for a minimum deterrent based on a triad of platforms. Without the accord, New Delhi could potentially use all its reactors for weapons purposes. The deal, by leading India to separate its military from its civilian facilities, limits the amount of fissile material, and therefore nuclear weapons, that India can produce. Moreover, it commits India to working towards a Fissile Material Cutoff Treaty, which would in any case force New Delhi to put a cap on its stockpile. As with the Non-Proliferation Treaty, India would be unlikely to limit its options on fissile materials until the other nuclear powers undertake treaty obligations restricting their own stockpiles. Given India's responsible behaviour and its limited goals in terms of deterrent capability, the issue of fissile-material production should not be of great concern.

Moreover, the Indo-US nuclear accord is unlikely to lead to additional states seeking to acquire nuclear weapons. Regional states acquire or give up nuclear weapons because of idiosyncratic domestic and regional political and security issues, and sometimes in order to bolster regime security.²⁶ As long as nuclear weapons remain a source of structural and deterrent power in the international system, states with ambitions to be autonomous in their security choices have major incentives to keep their nuclear options open. States which are actively pursuing or seek to pursue nuclear weapons might use the accord as a foil to justify their programmes, but they would have pursued such capability anyway. Both Iran and North Korea have been

working on their nuclear programmes far longer than the US-India deal has been brewing, and their reasons are independent of and unaffected by the US decision. Neither state has in any case shown any inclination in the past to follow through on treaty commitments to global norms. States like Brazil, Argentina and South Africa, on the other hand, are unlikely to go back on their commitment to non-possession.

India has been an exceptional case, pursuing and developing a fairly advanced nuclear programme, including weapons, to meet its security and economic needs while maintaining a consistent stand against signing the Non-Proliferation Treaty. It has never technically violated the treaty. Moreover, New Delhi has a proven record in maintaining secrecy and control over its

New Delhi has a proven record in maintaining control over its nuclear technology

nuclear knowledge and technology, preventing further proliferation. This responsible behaviour has been voluntary rather than part of any international treaty obligation. As Carnegie scholar Ashley Tellis points out,

India's commendable nonproliferation history, however, is owed entirely to sovereign decisions made by its government, not to its adherence to international agreements. As a result, any unilateral change in the Indian government's policy of strict nonproliferation could pose serious problems for American security.²⁷

Over the years, Indian parties on both right and left have increasingly portrayed any accommodation or restraint in dealing with the non-proliferation regime as idealistic and harmful to national security. Rather than assume that India will enforce strict controls over its nuclear technology and materials in perpetuity, the international community should seek to bind it to such conduct by some form of international agreement, and the Indo-US nuclear accord serves the purpose. Moreover, with increased participation by India in trade in high technology 'dual-use' sectors, formal commitments by India with regard to the kind of technology it can and cannot share are imperative.²⁸ The deal ensures that India has a legal obligation towards the non-proliferation goals of the international community, and strengthens rather than undermines the present regime.

The deal can be viewed as reward for the exemplary voluntary restraint India has shown in maintaining strict controls over its nuclear know-how and technology, despite being outside the fold. In that sense it actually upholds the carrot-and-stick approach of the Non-Proliferation Treaty; it rewards responsible nuclear behaviour with benefits that can be withdrawn if India violates its commitments. India has been punished for its nuclear transgressions by being denied civilian nuclear technology for the past several decades, and only its untainted non-proliferation record over that period makes special treatment possible. This is indeed a precedent: only consistently good behaviour in exercising control over nuclear expertise will be rewarded by the international community. States such as Iran, North Korea and Pakistan do not meet that standard, nor are they rising great powers, and the argument that they could claim similar special treatment is unconvincing.

India is unlikely to want to imitate the US and Russian approach to nuclear-weapons numbers and capabilities rather than the French or Chinese. Moreover, countries such as Canada, the United States, France and most

recently Australia have been actively courting China for the sale of reactors and uranium, which would enable Beijing to free its domestic uranium for weapons purposes. New Delhi is likely to ask why China, given that its weapons are intended as a deterrent against the West and its poor track record when it comes to upholding non-proliferation obligations, should be treated better than a more responsible India.

* * *

The damage critics envision to the international non-proliferation regime from the US–India accord pales in comparison to the damage that can be done by India’s actions and rhetoric as a dissatisfied state. But in fact the deal upholds and strengthens rather than undermines the regime. As India develops into a major world power, continued defiance will further damage the viability of a peaceful international order. Attempts by the United States to integrate India into the non-proliferation regime as a lead actor augur well for the longevity of both the non-proliferation regime and the international order, and suggest to other rising powers that the system is flexible enough to allow for inevitable changes in the global distribution of power.

Notes

- 1 The agreement was formalised in December 2006 when President George W. Bush signed the Henry Hyde Nuclear Cooperation Act. A follow-up ‘123 agreement’ which spells out key elements of the cooperation was finalised on 20 July 2007, with the text made public on 3 August. Approval by the US Congress, the International Atomic Energy Agency and the Nuclear Suppliers Group can now be pursued with the successful conclusion of the 123 negotiations. This process may be delayed due to internal opposition in India from leftist parties whose support is crucial for Prime Minister Manmohan Singh’s minority government to stay in power.
- 2 On this structural problem of the Non-Proliferation Treaty, see T.V. Paul, ‘The NPT and Power Transitions in the International System’, in Raju G.C. Thomas (ed.), *The Nuclear Non-proliferation Regime: Prospects for the 21st Century* (Houndsmills: Macmillan, 1998), pp. 56–74.
- 3 Argentina acceded to the treaty in 1995, and Brazil in 1998. Only Israel, Pakistan and India have remained outside the treaty, and North Korea withdrew in 2003.
- 4 Stephen P. Cohen, ‘India Rising’, *Wilson Quarterly*, vol. 24, Summer 2000, p. 46.
- 5 For a well-argued account see George Perkovich, ‘Is India a Major Power?’, *Washington Quarterly*, vol. 27, no. 1, Winter 2003–04, pp. 129–44.
- 6 Our approach in this essay involves power-transition theory, whose classic expression can be found in A.F.K.

- Organski and Jacek Kugler, *The War Ledger* (Chicago, IL: The University of Chicago Press, 1980); for a broader treatment of this thesis see Paul Kennedy, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000* (New York: Random House, 1988). Our use of the concept of ‘power transition’ is not strictly in keeping with the theory as it is understood today, but is in consonance with the logic of the theory itself and may in fact suggest what the term was intended to imply when the theory was first propounded. For India’s claim to major-power status see Baldev Raj Nayar and T.V. Paul, *India in the World Order: Searching for Major Power Status* (Cambridge: Cambridge University Press, 2002), pp. 27–64.
- 7 Johan Galtung, ‘A Structural Theory of Aggression’, *Journal of Peace Research*, vol. 1, no. 2, 1964, pp. 98–9.
 - 8 Ronald L. Tammen, Jacek Kugler, Douglas Lemke, Alan C. Stam III, Mark Abdollahian, Carole Alsharabati, Brian Efird and A.F.K. Organski, *Power Transitions: Strategies for the 21st Century* (New York: Chatham House Publishers, 2000), p. 178.
 - 9 ‘Suo Moto Statement by Prime Minister Atal Behari Vajpayee in the Indian Parliament on May 27, 1998’, *India News*, 16 May–15 June 1998, available at <http://www.indianembassy.org/inews/majune1598.pdf>.
 - 10 T.V. Paul, ‘The Systemic Bases of India’s Challenge to the Global Nuclear Order’, *The Non-Proliferation Review*, vol. 6, no. 1, Fall 1998, pp. 1–2.
 - 11 The draft nuclear doctrine underscores the reactive nature of the arsenal, and India’s commitment towards arms control and non-proliferation.
 - 12 The full text of the treaty is available at <http://www.iaea.org/Publications/Documents/Treaties/npt.html>.
 - 13 Article VI of the treaty states that ‘Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control’.
 - 14 David Shambaugh, ‘Containment or Engagement of China? Calculating Beijing’s Responses’, *International Security*, vol. 21, no. 2, Autumn 1996, p. 182.
 - 15 William H. Overholt, ‘President Nixon’s Trip to China and its Consequences’, *Asian Survey*, vol. 13, no. 7, July 1973, pp. 711–12; Shambaugh, ‘Containment or Engagement’, p. 184; see also Alastair Iain Johnston, ‘Is China a Status Quo Power?’ *International Security*, vol. 27, no. 4, Spring 2004, pp. 5–56.
 - 16 Yongjin Zhang, *China in International Society Since 1949: Alienation and Beyond* (London: Macmillan Press, 1998), p. 100.
 - 17 Johnston, ‘Is China a Status Quo Power?’.
 - 18 ‘Indo-US Joint Statement’, 18 July 2005, available at http://www.indianembassy.org/press_release/2005/July/21.htm.
 - 19 *Ibid.*
 - 20 ‘India, Oil and Nuclear Weapons’, *New York Times*, 19 February 2006.
 - 21 Rep. Ed Royce (R-CA), quoted in ‘U.S., India Reach Deal on Nuclear Cooperation’, *Washington Post*, 3 March 2006.
 - 22 Robert Einhorn, ‘Should the US Sell Nuclear Technology to India? Part I’, *YaleGlobal*, 8 November 2005, <http://yaleglobal.yale.edu/display.article?id=6474>.

- ²³ Joseph Cirincione, 'The US's Nuclear Cave-In', *Asia Times Online*, 4 March 2006, http://www.atimes.com/atimes/South_Asia/HCo4Dfo3.html. For counterpoints, see Dinshaw Mistry and Sumit Ganguly, 'The US–India Nuclear Pact: A Good Deal', *Current History*, no. 105(694), November 2006, pp. 375–8; Dinshaw Mistry, 'Diplomacy, Domestic Politics, and the U.S.–India Nuclear Agreement', *Asian Survey*, vol. 46, no. 5, September–October 2006, pp. 675–98.
- ²⁴ Fred McGoldrick et al., 'The U.S.–India Nuclear Deal: Taking Stock', *Arms Control Today*, October 2005.
- ²⁵ Einhorn, 'Should the US Sell Nuclear Technology to India?'
- ²⁶ A substantive discussion of this position may be found in T.V. Paul, *Power versus Prudence: Why Nations Forgo Nuclear Weapons* (Montreal, QC: McGill–Queen's University Press, 2000).
- ²⁷ Ashley J. Tellis, 'Should the US Sell Nuclear Technology to India? – Part II', *YaleGlobal*, 10 November 2005, <http://yaleglobal.yale.edu/display.article?id=6487>.
- ²⁸ Seema Gahlaut, 'Misfiring at the India Nuclear Deal', *Foreign Policy*, February 2006, p. 2.