Two-Level Game Theory in World Politics: Domestic Constraints and International Negotiations

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ABSTRACT

Robert D. Putnam's (1988) two-level game theory holds that national leaders negotiate simultaneously with foreign counterparts and with domestic constituencies whose approval determines whether an agreement can be implemented. This article argues that domestic political constraints frequently determine the success or failure of international agreements and, in doing so, shape the architecture and effectiveness of global politics. It reviews the theory's core concepts, namely Level I and Level II bargaining, the win-set, involuntary and voluntary defection, the Schelling conjecture, and synergistic and conflictual linkages, and applies them through a common analytical template to three cases. Woodrow Wilson's defeat in the United States Senate over the Treaty of Versailles and the League of Nations illustrates success at Level I and collapse at Level II: an empty domestic win-set producing involuntary defection. The positions of the United States and Israel toward the International Criminal Court illustrate a different pattern, active participation in negotiating the Rome Statute followed by deliberate non-accession grounded in persistent, near-empty domestic win-sets. The article then considers the implications for multilateralism, institutional legitimacy, and the enforceability of international law, and for trade, climate, arms control, and human-rights regimes. A third case, Nigeria and the African Continental Free Trade Area (AfCFTA), shows how constitutional dualism, stakeholder opposition, and delayed signature produce a Level II dynamic outside the great powers. It concludes that the theory remains an indispensable lens for understanding the limits of international cooperation and that leaders who neglect Level II constraints risk producing agreements that cannot be delivered.

Keywords: two-level games, win-set, domestic politics, Woodrow Wilson, League of Nations, International Criminal Court, multilateralism, Nigeria, AfCFTA

INTRODUCTION

International agreements are usually remembered as the achievements, or the failures, of the diplomats who negotiate them. Yet the fate of an accord is often settled far from the negotiating table, in legislatures, party caucuses, bureaucracies, interest groups, and the court of public opinion at home. In 1919 Woodrow Wilson returned from Paris having secured the Covenant of the League of Nations as part of the peace settlement, only to watch the United States Senate decline to give its consent. Eight decades later, the United States and Israel took part in the negotiations that produced the Rome Statute of the International Criminal Court (ICC), each signed the Statute, and each subsequently withdrew its signature. In both episodes the decisive constraint was what the home audience would tolerate.

Robert D. Putnam's (1988) two-level game theory offers a systematic way of understanding this pattern. Putnam proposed that the politics of many international negotiations can be understood as a game played on two boards at once. On the first, national negotiators bargain with their foreign counterparts to reach a tentative agreement. On the second, each negotiator must secure the support of domestic constituencies, including legislators, parties, agencies, interest groups, and publics, without whom the agreement cannot be ratified or put into effect. The core claim is that national leaders must satisfy two audiences at once, and that neither the international nor the domestic game can be understood in isolation from the other (Evans et al., 1993; Putnam, 1988).

This article advances the following thesis: domestic political constraints frequently determine the success or failure of international agreements, and in doing so they shape the architecture and effectiveness of global politics. Agreements that cannot be ratified leave behind institutions with missing members, weakened legitimacy, and uncertain enforcement. The claim is not that domestic politics always dominates, but that Level II is a frequent and underappreciated site of decisive constraint, so that analysts who look only at the negotiating table will misjudge which agreements will hold.

The argument proceeds in seven steps. The next section sets out the theoretical foundations of the two-level framework. The third section specifies the analytical template and the criteria used to select and compare cases. The fourth examines Woodrow Wilson and the League of Nations as the classic illustration of Level II failure, and the fifth turns to the United States and Israel in relation to the ICC. The sixth draws broader implications for world politics, the seventh applies the framework to Nigeria, and the final section concludes. The cases are interpreted qualitatively and were selected for contrast rather than representativeness, so the article illustrates and extends the theory rather than testing it.

Theoretical Foundations

Two Levels, Two Games

Putnam (1988) distinguished two analytically separate stages of an international negotiation. Level I is the bargaining between negotiators, which produces a tentative agreement. Level II consists of separate discussions within each national group of constituents about whether to ratify that agreement. Ratification in this sense is meant broadly. It includes formal procedures such as legislative consent to a treaty, but also any domestic decision process, formal or informal, that is needed to put an agreement into effect. The two stages are not merely sequential. Negotiators anticipate Level II reactions while they bargain at Level I, and Level I outcomes in turn reshape the domestic debate.

The chief negotiator, whom Putnam called the chief of government, is the only actor who sits at both tables and therefore occupies the structural position of a broker. Two features of this position deserve emphasis. First, the negotiator is not simply an agent of domestic interests. He or she has preferences of his or her own, which may include the national interest as the leader perceives it, political standing, and a place in history. Second, sitting at both tables confers informational advantages: the negotiator can shape each audience's understanding of what the other side will accept. Putnam (1988) accordingly attributed interests of their own to chief negotiators, and da Conceicao-Heldt and Mello (2017) stress that executives retain a degree of autonomy that cannot be derived purely from the preferences of their constituencies.

The Win-Set

The central analytical concept is the win-set of a Level I agreement, defined as the set of all possible agreements that would gain the necessary support among domestic constituents when simply put to a vote (Putnam, 1988). The win-set defines the range of deals a negotiator can credibly bring home. Three implications follow. First, an international agreement is possible only if the win-sets of the parties overlap. If they do not, no deal exists that both sides can deliver. Second, larger win-sets make agreement more likely, because overlap is easier to find. Third, the relative sizes of the win-sets influence how the gains from cooperation are distributed. A negotiator with a large win-set is more exposed to pressure to concede, whereas one with a small win-set can credibly decline.

Putnam identified three families of factors that determine the size of a win-set. The first is the distribution of power, preferences, and possible coalitions among Level II actors. The more constituents are indifferent to, or in favor of, an agreement, the larger the win-set, and the more polarized or opposed they are, the smaller it becomes. The second is the set of Level II political institutions, above all ratification procedures. A supermajority requirement, such as the two-thirds consent that the United States Constitution demands of the Senate for treaties, shrinks the win-set relative to a simple-majority rule, whereas greater autonomy of central decision makers from domestic pressure tends to enlarge it. The third is the strategies of Level I negotiators,

including side-payments to reluctant constituents and the linkage of issues in ways that build supporting coalitions (Milner, 1997; Putnam, 1988).

Win-Set Size and Negotiating Flexibility

Win-set size governs two quantities that pull in opposite directions: a negotiator's flexibility and a negotiator's bargaining leverage. Flexibility is the range of Level I outcomes the negotiator can accept without endangering ratification. A simple example shows the relationship. Suppose two governments bargain over one issue measured on a scale from 0 to 10, where government A prefers outcomes near 0 and government B prefers outcomes near 10. If A's constituents would ratify any outcome up to 6, and B's would ratify any outcome of 4 or above, the zone of possible agreement runs from 4 to 6. If A's domestic ceiling falls to 4, the zone shrinks to a single point, and any misjudgment by either side produces a failed deal. If A's ceiling rises to 8, the zone widens to the interval from 4 to 8, which makes agreement easier but also allows B to insist on a settlement closer to its own preference. The tighter ceiling therefore pulls the bargain toward A's end of the scale, which is the Schelling effect, at the price of a higher probability that no bargain exists.

Flexibility and leverage are thus functions of the same variable, which is why negotiators seek a win-set large enough to guarantee overlap but small enough to be credible as a constraint. Uncertainty compounds the problem. Because win-sets are rarely observed directly, each negotiator must estimate the other's, and errors in either direction are costly: overestimating a counterpart's flexibility produces demands that cause deadlock, whereas underestimating it forfeits gains (Putnam, 1988). Negotiators also act to change win-set size over time, by consulting constituents, offering side-payments, or recasting the issue, so flexibility is not a fixed endowment but a product of Level II work. The case analyses below accordingly attend as much to what negotiators did to their own win-sets as to the constraints they inherited.

Involuntary and Voluntary Defection

Putnam borrowed the language of defection from game theory. Voluntary defection is the familiar case of a rational actor reneging on a commitment because it expects to gain by doing so, as in the prisoner's dilemma. Involuntary defection occurs when a negotiator who sincerely agrees to a deal is unable to deliver it because the domestic ratification process fails (Putnam, 1988). The distinction matters because the two kinds of defection call for different remedies. Voluntary defection invites monitoring, sanctions, and reputational enforcement. Involuntary defection is a problem of information and domestic structure. Counterparts rationally fear it, and that fear raises the cost of reaching agreement in the first place. Voluntary defection is not a single event but a calculation. Its likelihood rises with the gains from reneging and falls with the probability and cost of detection and with the value of future cooperation, which is why monitoring, reputational stakes, and repeated interaction restrain it. The two forms are also linked through domestic structure. A leader with a large win-set and wide autonomy from Level II can credibly promise delivery, which reduces the risk of involuntary defection, but the same autonomy leaves that leader, or a successor, free to reverse course, which raises the risk of voluntary defection. Treaty exit clauses, such as the withdrawal provision of the Paris Agreement discussed below, institutionalize this second risk. Putnam (1988) himself discusses the Versailles Treaty as an illustration of involuntary defection, a case taken up in a later section.

The Schelling Conjecture

One of the most counterintuitive propositions in the theory is what Putnam called the Schelling conjecture, after Thomas Schelling's (1960) argument that a bargainer's power can derive from the capacity to bind oneself. If a negotiator can credibly say that the legislature will not accept anything beyond a certain point, the counterpart must concede or risk the loss of the deal. A narrow domestic win-set can therefore be a source of bargaining strength rather than weakness.

The conjecture has limits that Putnam himself recognized. The first concerns credibility: a negotiator who claims to be constrained must be believed, and a constraint that appears manufactured is easily discounted. The second concerns risk: the narrower the win-set, the greater the chance that no overlap with the counterpart's win-set exists and that talks collapse, or that a deal struck at the edge of the domestic range subsequently fails.

The third is that the benefit is distributional rather than cooperative. The constrained party may capture a larger share of the gains, but the probability of any agreement falls. The conjecture thus describes a bargaining tactic that can harden into a structural trap, a point the cases below illustrate.

Synergistic and Conflictual Linkages

The two levels are connected in more than one way, and the direction of the connection determines whether an agreement is easier or harder to ratify. Linkage is synergistic when an international agreement alters the domestic balance of forces so as to make possible a policy that would not otherwise have been feasible. Linkage is conflictual when the agreement does the opposite: it becomes a rallying point for opponents, hardens positions, and shrinks the win-set. Putnam (1988) developed the first idea in detail and left the second largely implicit, so this article uses the label conflictual for the inverse case, in which international commitments or demands mobilize domestic opposition and make not only the agreement at hand but also later cooperation harder to deliver.

Three mechanisms make linkage observable in practice. Issue linkage joins the agreement to other domestic or international issues so that previously opposed constituencies become supporters. Side-payments compensate those who stand to lose, such as sectors exposed to liberalization, in exchange for their acquiescence. Reverberation transmits international pressure into domestic debate, strengthening some coalitions and weakening others (Putnam, 1988). When these mechanisms favor the leader, the linkage is synergistic. The best-known illustration is Putnam's analysis of the 1978 Bonn economic summit, in which commitments by several governments, such as German fiscal stimulus and American oil price decontrol, helped each leader overcome opposition at home to a policy he or she preferred. When the mechanisms work against the leader, the linkage is conflictual: a security guarantee is denounced as a surrender of war powers, or a court is portrayed as a threat to soldiers, and the international agreement becomes the focus of domestic mobilization.

The distinction is analytically useful because it ties the theory to observable evidence. A synergistic linkage predicts that constituencies once opposed to a policy will be found supporting it after the agreement, and that leaders will cite the agreement to justify domestic reform. A conflictual linkage predicts the opposite: new or intensified opposition coalitions, counter-legislation, or explicit appeals to sovereignty. The cases below classify each episode on this dimension (Table 1) and look for the corresponding evidence.

Critiques and Extensions

Subsequent scholarship has both refined and challenged the framework. The case studies collected by Evans et al. (1993) applied the approach across trade, security, and macroeconomic bargaining, and Moravcsik (1993) used its introduction to integrate international and domestic theories of bargaining within a single framework. Milner (1997) developed a more formal account in which the preferences of domestic actors and the institutions that aggregate them shape the prospects of international cooperation, with divided government and sharp preference divergence making cooperation harder. da Conceicao-Heldt and Mello (2017) survey three decades of scholarship and emphasize that the perspective treats executives as gatekeepers who retain a measure of autonomy, which distinguishes it from purely liberal accounts and helps reintegrate comparative politics and international relations. Bjola and Manor (2018) revisit the theory for the digital age through the @TheIranDeal Twitter channel that the Obama White House launched to build domestic support for the Iran nuclear agreement. They introduce the concept of domestic digital diplomacy and argue that digitalization has complicated the two-level game by widening access to foreign policy decisions.

Win-sets are difficult to measure in advance, and analysts risk reading them backward from outcomes, so the cases below illustrate the theory's logic rather than prove it.

Analytical Framework and Case Selection

Operationalizing the Framework

To avoid applying Putnam's concepts impressionistically, each case is analyzed through the same six

questions, summarized in Table 1. First, who are the Level I actors, meaning the negotiators and the counterparts with whom they bargain? Second, who are the Level II constituencies whose consent or acquiescence the agreement requires, including legislators, agencies, parties, and organized interests? Third, what is the formal domestic approval mechanism, including the rules governing signature, ratification, and domestic enforceability? Fourth, which of Putnam's three families of determinants (preferences and coalitions, institutions, and negotiator strategies) account for the size of the win-set? Fifth, how did the two games interact, that is, was the linkage synergistic or conflictual? Sixth, what outcome followed, and does it amount to involuntary defection, voluntary defection, or neither?

Win-set size is inferred, as the framework requires, from observable proxies: the approval threshold, the number and cohesion of veto players, the public positions and voting behavior of constituencies, and the negotiator's own statements about what could be ratified. Because such inferences can become circular, each case relies on contemporaneous evidence of constituency positions, including votes, resolutions, and official statements, and not only on the eventual outcome.

Table 1 Comparative Application of the Two-Level Framework to the Three Cases

Dimension	**Wilson and the League of Nations (1919-1920)**	**United States, Israel, and the ICC (1998-present)**	**Nigeria and the AfCFTA (2018-2020)**
Level I actors	Wilson and the Allied leaders at the Paris Peace Conference	National delegations at the Rome Conference, led for the United States by Ambassador David Scheffer; the Israeli delegation	The Nigerian delegation and other African Union members; the Presidency and line ministries
Level II constituencies	Four Senate groups (Table 2), the Foreign Relations Committee, the Republican Party, public opinion	Senate Foreign Relations Committee, Joint Chiefs of Staff and the defense establishment; the Israeli government and security establishment	Organized labor, manufacturers, other business bodies, the Federal Executive Council, the National Assembly
Domestic approval mechanism	Senate advice and consent by two-thirds (U.S. Const. art. II, § 2)	United States: executive decision whether to transmit, then two-thirds Senate consent. Israel: executive signature; domestic effect generally requires legislation	Executive approval and signature, executive ratification, then domestication by Act of the National Assembly (Constitution, s. 12)
Main determinants of win-set size	Partisan control after 1918, the supermajority rule, Article X and war-powers objections, Wilson's refusal of reservations	Sovereignty and security concerns, constitutional objections, the supermajority rule, a hostile committee chair, military opposition	Expected distributional effects, interest-group opposition, the executive's readiness to consult and negotiate safeguards
Strategies used to change the win-set	Limited amendments to the Covenant in Paris; a national speaking tour	Safeguards sought in the Statute (Article 16, complementarity); citation of Senate opposition at the table	Impact and readiness assessment, stakeholder consultation, safeguards in annexure negotiations, a domestic reform agenda
Stage reached	Signed; Senate vote on ratification	Signed; signature later withdrawn; never ratified	Signed (2019); ratified (2020); domestication to be completed
Linkage type	Conflictual: Article X mobilized opposition	Conflictual: the Court prompted counter-legislation (ASPA)	Initially conflictual; potentially synergistic through the reform agenda

Outcome and defection type	Failed ratification: involuntary defection	Deliberate non-accession: no defection from a binding commitment	Delayed commitment, then ratification; risk of an implementation gap

Note. Compiled by the author from the sources discussed in the text. Terms follow the definitions in the section on theoretical foundations. ICC = International Criminal Court; ASPA = American Servicemembers' Protection Act of 2002; AfCFTA = African Continental Free Trade Area.

Case Selection and Comparability

Cases were chosen using a diverse-case logic (Seawright & Gerring, 2008) and compared through a structured, focused comparison in which the same questions are asked of each case (George & Bennett, 2005). Four criteria guided the selection. The first is variation in the Level II outcome: failed ratification (Wilson), deliberate non-accession (the United States and Israel with respect to the ICC), and delayed signature followed by ratification (Nigeria). The second is variation in domestic approval rules, from a supermajority legislative veto, through executive control of the decision to seek consent, to a dualist system in which ratification and domestication are separate steps. The third is variation in the state's position in the international system, from a rising power at the end of a world war, through a superpower and a regional military power, to a large developing economy. The fourth is a shared subject: each agreement created or joined a multilateral institution or regime whose obligations touched sovereignty or domestic distribution, so that the Level II stakes were comparably high. The Wilson case is included as the canonical one against which later cases are read, the ICC cases hold the great-power setting constant while changing the outcome, and the Nigerian case moves the analysis to a developing-country setting with a different institutional design.

These choices carry limits that the analysis respects. The cases are not equivalent. The 1919 settlement was a peace treaty whose Covenant carried a security guarantee, the Rome Statute created a court with jurisdiction over individuals, and the AfCFTA is a trade agreement with distributional effects. The constitutional rules, party systems, and international environments also differ: the United States and Israel differ in regime type, size, and treaty procedures, and Nigeria is a federal presidential system in which ratification and domestication are separate acts. The cases are therefore compared on the same analytical dimensions and not treated as interchangeable, and the conclusions concern mechanisms and not equivalence of outcomes. With three cases, the findings are suggestive and are offered as hypotheses for testing against larger samples.

Classic Illustration: Woodrow Wilson and the League of Nations

Success at Level I

Wilson arrived in Europe in December 1918 as the first sitting American president to travel there while in office, bearing a program whose final point, the fourteenth of the Fourteen Points, called for a general association of nations. At the Paris Peace Conference in the first half of 1919 he made the League the centerpiece of his diplomacy. He insisted that the Covenant be drafted early and embedded in the peace treaty itself, calculating that the League would correct the settlement's imperfections over time (Ambrosius, 2002; Knock, 1992). The Treaty of Versailles was signed in June 1919 with the Covenant as its first part. Measured at Level I, Wilson had achieved his central objective.

Collapse at Level II

The domestic game was a different matter. Article II of the United States Constitution requires the advice and consent of two-thirds of the Senate for treaties. Wilson's position in the Senate had weakened sharply in the elections of November 1918. His appeal to voters to return a Democratic Congress as a vote of confidence in his leadership had backfired, and Republicans won majorities in Congress. He then included no sitting senator and no leading Republican politician in the American delegation to Paris (its one Republican member, Henry White, was a retired diplomat), which cost him partisan cover and a channel for gauging Senate sentiment (Knock, 1992).

The Foreign Relations Committee was chaired by Henry Cabot Lodge, who was personally hostile to Wilson and skeptical of the League. The principal objection concerned Article X of the Covenant, under which members undertook to respect and preserve the territorial integrity and political independence of one another against external aggression. Opponents argued that it threatened to commit the United States to war without the consent of Congress and so intruded on Congress's constitutional war powers. The Senate divided into roughly three camps: a small group of irreconcilables who opposed any American membership, a larger group of reservationists led by Lodge who would consent only with changes, and the supporters of unreserved ratification (Ambrosius, 2002; Knock, 1992).

Signals from Level II reached Paris. In early March 1919, as Wilson's brief return to the United States was ending, Lodge released a round-robin statement signed by thirty-seven Republican senators and senators-elect declaring that they would not accept the League in the form then drafted. Back in Paris, Wilson sought amendments to the Covenant to meet some of the stated objections, including recognition of the Monroe Doctrine and of the reservation of domestic questions to national jurisdiction. This episode shows reverberation at work, with the domestic game visibly reshaping the international one. But the accommodations were limited, and Wilson resisted binding reservations once the treaty reached the Senate. In September 1919 he undertook a nationwide speaking tour to rally public opinion, a strategy of appealing past the Senate to the public, and on October 2 he suffered a massive stroke that left him gravely incapacitated. On November 19, 1919, the Senate rejected the treaty with fourteen Lodge reservations attached by a vote of 55 to 39, with Wilson's loyal Democrats voting alongside the irreconcilables to defeat it, and then rejected it without reservations by 53 to 38. A further attempt in March 1920 fell seven votes short of the required two-thirds (49 to 35), even though some Democrats broke with Wilson to support it. The United States concluded a separate peace with Germany in 1921 and never joined the League.

The Senate Groups and the Ratification Obstacles

The Senate that received the treaty was not divided simply into supporters and opponents. It held four positions, summarized in Table 2, and the pattern of their alliances explains why a majority for some version of the League existed while a two-thirds majority did not. Because Article II, Section 2 of the Constitution requires the consent of two-thirds of the senators present (U.S. Const. art. II, 2), the decisive question was whether any text could hold together the loyal Wilson Democrats, the mild reservationists, and enough of Lodge's strong reservationists. On November 19, 1919, none could. Wilson's loyalists joined the irreconcilables against the treaty with the Lodge reservations, and the reservationists joined the irreconcilables against the unreserved treaty (U.S. Senate, n.d.-a). In March 1920, after bipartisan efforts to craft milder language, twenty-three Democrats broke with Wilson to support a reserved treaty, but the remaining loyalists and the irreconcilables together still exceeded one-third of the chamber, and the treaty failed by seven votes (History.com Editors, 2025).

Table 2 Senate Positions on the Treaty of Versailles and the League Covenant, 1919-1920

Group	Leading figures	Position	Principal objections or demands
Loyal Wilson Democrats	Woodrow Wilson; Senator Gilbert Hitchcock as Democratic floor leader	Ratification without binding reservations; most followed Wilson in voting against the reserved treaty in November 1919	Opposed reservations that would alter the Covenant's obligations, above all on Article X
Mild reservationists	Moderate Republicans and a number of Democrats	Ratification with limited, interpretive reservations; supported compromise talks in early 1920	Clarification of Congress's war power and of the Monroe Doctrine rather than changes to the League's structure

Strong reservationists	Henry Cabot Lodge and most Republican senators	Ratification only with substantive reservations (fourteen in the Lodge package)	Article X as a commitment to war without congressional consent; Monroe Doctrine; domestic questions; the Shantung provisions; withdrawal; the voting strength of the British Empire
Irreconcilables	William Borah, Hiram Johnson, Robert La Follette	Rejection in any form	The League as an entanglement and a threat to national independence; some objected as progressives and anti-imperialists

Note. Compiled from U.S. Senate (n.d.-a, n.d.-b), Ambrosius (2002), and Knock (1992). Group sizes shifted across votes and sources give different counts, so none are reported here. The Lodge package is described in the text.

Seven specific obstacles stand out. The first was the two-thirds rule itself, which gave a determined minority a veto. The second was Article X, which opponents read as a commitment to use force without a vote of Congress. The third and fourth were the treatment of the Monroe Doctrine and of questions regarded as domestic, such as immigration and tariffs, which reservationists wished to place beyond League jurisdiction. The fifth was the Shantung settlement, which transferred German rights in China to Japan and offended senators who saw it as a betrayal of China. The sixth was the voting strength of the British Empire in the League Assembly. The seventh was the personal and partisan antagonism between Wilson and Lodge, compounded by Wilson's incapacity after October 2, 1919, and by his refusal to authorize compromise even when moderates in both parties sought it (Ambrosius, 2002; Knock, 1992; U.S. Senate, n.d.-a). Only the first of these obstacles was institutional and fixed. The rest were negotiable in principle, which is why the case supports the view that the win-set was shaped by strategy as well as by structure.

An Empty Win-Set and Involuntary Defection

In Putnam's terms, the Wilson case is the paradigm of a Level II veto. At the end of the process, the set of agreements that Wilson was willing to endorse and the set of agreements that two-thirds of the Senate was willing to approve did not intersect. The win-set for a treaty containing the League was, in practical terms, empty. The other Allied governments had bargained with an American president whom they reasonably believed could deliver his country's participation. He could not. This is involuntary defection: the American commitment was sincerely given by its chief negotiator and then withdrawn by the domestic ratification process (Putnam, 1988).

The case also qualifies any picture of involuntary defection as purely exogenous. Historians have long debated whether a compromise on reservations was available (Ambrosius, 2002; Knock, 1992), and the theory helps to specify why the question matters. The win-set was not a fixed feature of American institutions. It was shaped by Wilson's own choices: the partisan framing of the 1918 elections, the composition of the delegation, the sequencing of the League and the peace settlement, and, finally, his refusal to accept reservations that might have enlarged the domestic overlap. Putnam stressed that negotiators can and do act to expand their win-sets. Wilson's failure was in part a failure to do so.

Lessons for the Theory

Four lessons stand out. First, Level II must be bargained for and not assumed. A negotiator who treats domestic consent as a mere formality after the real diplomacy is over invites precisely the outcome Wilson suffered. Second, institutional rules matter. The two-thirds requirement transformed what would have been a manageable partisan disagreement into a veto. Third, the Schelling conjecture cuts both ways. Senate resistance did extract some concessions from the Allies, such as the Monroe Doctrine clause, but pushed too far it produced no American membership at all. Fourth, counterparts and institutions bear the cost. The League began, and remained, without its most powerful proponent, and its capacity for collective security was damaged from the outset. Later American planners of the United Nations are often understood to have

absorbed this lesson, involving leading senators in the design of the new organization from an early stage (Ambrosius, 2002), and the Senate approved the Charter by 89 to 2 in 1945.

Contemporary Cases: The United States, Israel, and the International Criminal Court

Negotiation Without Accession

The Rome Statute of the ICC was adopted on July 17, 1998, at the conclusion of a diplomatic conference in Rome, by a vote reported as 120 in favor, 7 against, and 21 abstentions. The United States and Israel were among the states that voted against (American Servicemembers' Protection Act of 2002; Schabas, 2017; Schiff, 2008). Both had been active participants in the negotiations. The United States in particular worked intensively to shape the Court's jurisdiction, the powers of the prosecutor, and the Court's relationship with the United Nations Security Council, and it succeeded in securing several features it sought, including the principle of complementarity, under which the Court acts only where national systems are unwilling or unable to prosecute, and the Security Council's power under Article 16 to defer investigations for renewable twelve-month periods (Bosco, 2014; Rome Statute, 1998; Schiff, 2008). Yet the final text left concerns unresolved, and the lead American negotiator, David Scheffer, told Congress afterward that the United States could not sign because critical negotiating objectives had not been achieved (American Servicemembers' Protection Act of 2002). Washington objected to the Court's potential jurisdiction over nationals of states that are not parties to the Statute, to the independent powers of the prosecutor, and to the absence of a Security Council veto over cases. Israel's objections included the Statute's classification, as a war crime, of the transfer by an occupying power of parts of its civilian population into occupied territory, which Israel understood to target its settlement policy, together with broader security concerns (Rome Statute, 1998; Schabas, 2017).

Signature and Retreat

The pattern that followed was one of qualified engagement and then retreat. Both states signed the Statute on the final day for signature, December 31, 2000, Israel with an interpretive declaration. President Clinton's accompanying statement said that the United States wished to remain engaged in making the Court an instrument of impartial and effective justice, but that he would not submit the Statute to the Senate, and did not recommend that his successor do so, until fundamental concerns were satisfied (Clinton, 2000). Neither state ratified. In May 2002 the Bush administration notified the United Nations Secretary-General that the United States did not intend to become a party and had no legal obligations arising from its signature, and Israel sent a comparable notification in August 2002 (Bosco, 2014; Schabas, 2017). Congress enacted the American Servicemembers' Protection Act of 2002 (ASPA), which restricted official cooperation with the Court and authorized measures to protect American personnel, and Washington pursued bilateral immunity agreements under Article 98 of the Statute (Bosco, 2014; Ralph, 2007).

Later administrations oscillated between cooperation and confrontation. The Trump administration imposed sanctions on the Court's then-prosecutor and other officials in 2020, and the Biden administration lifted them in 2021. Palestine's accession to the Statute in 2015 and the Court's engagement with the situation in the Palestinian territories then gave Israeli concerns a concrete form, illustrating the very feature of the Statute that had animated the original objection: a non-party's nationals may fall within the Court's reach for conduct on the territory of a state party (Schabas, 2017). In November 2024 Pre-Trial Chamber I rejected Israel's jurisdictional challenges and issued arrest warrants for Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant (International Criminal Court [ICC], 2024), and in February 2025 President Trump signed Executive Order 14203 imposing sanctions connected to the Court's actions (Exec. Order No. 14203, 2025). Far from fading, the Level II constraint has hardened into active opposition.

Applying the Framework

Applied to this case, the six questions yield the following picture. At Level I the principal American negotiator was Ambassador David Scheffer, who bargained with other delegations over jurisdiction, the prosecutor's powers, and the Security Council's role, and who afterward reported to Congress on what had and had not been achieved (American Servicemembers' Protection Act of 2002; Schabas, 2017). At Level II the constituencies

that mattered were the Joint Chiefs of Staff and the defense establishment, the Senate Foreign Relations Committee under Senator Jesse Helms, and the White House itself, whose own concerns about exposing American personnel aligned with theirs (Scheffer, 2008). The approval mechanism was Senate consent by two-thirds, which the executive never invoked because it never transmitted the Statute. For Israel, the available evidence on constituency positions is thinner, and the analysis relies on the content of Israel's objections to the population-transfer provision and on its notification of non-participation (Schabas, 2017). The linkage was conflictual: the Court's existence produced counter-legislation and a sovereignty-based coalition against it, as the next sections show.

Signature, Unsigning, and Ratification

Three legal positions must be kept apart, because they carry different obligations and different Level II meanings. Signature of a treaty that is subject to ratification, as the Rome Statute is (Rome Statute, 1998, art. 125), does not bind the signatory to the treaty's substantive obligations. It does create a limited obligation under Article 18 of the Vienna Convention on the Law of Treaties to refrain from acts that would defeat the treaty's object and purpose, an obligation that lasts until the state has made clear its intention not to become a party (Vienna Convention on the Law of Treaties, 1969, art. 18). Ratification is the act by which a state consents to be bound. For the Rome Statute it would have brought the state's territory and nationals within the Court's jurisdiction on the Statute's terms and would have made exit possible only through formal withdrawal (Rome Statute, 1998, arts. 125, 127).

The 2002 notifications by the United States and Israel were therefore neither withdrawals from the Statute, since neither state had ratified it, nor reservations. They were declarations that each state did not intend to become a party and consequently had no obligations arising from its signature, which removed even the residual Article 18 obligation. In Level II terms, signature was an executive act requiring no legislative approval and carrying low domestic cost; ratification would have required Senate consent in the United States; and the withdrawal of signature was a further executive act that responded to the hardening of domestic opposition. Treating the three steps as one would obscure the point that the domestic veto operated at the ratification stage, which neither government ever initiated.

Persistent, Near-Empty Win-Sets

Why did the two states not ratify? The two-level framework directs attention to three clusters of Level II constraint: sovereignty, security, and constitutional principle. On sovereignty, Ralph (2007) argues that American opposition cannot be reduced to a fear of politically motivated prosecutions. It reflects a deeper attachment to an international order conceived as a society of sovereign states, in which the United States holds a special role, and a corresponding resistance to the Court's embodiment of a more cosmopolitan world society.

On security, the global military presence of the United States exposes its service members to a risk of prosecution that few other states face, and the defense establishment was among the most vocal opponents of the Statute during and after the negotiations (Bosco, 2014; Schiff, 2008). For Israel, ongoing conflict, military occupation, and the politics of settlement made the prospect of external judicial scrutiny a question of security and national identity. On constitutional principle, American critics argued that the Court's procedures, including the absence of trial by jury and the extensive powers of the prosecutor, did not match the protections of the United States Constitution, and that the Constitution did not permit the transfer of authority over American nationals to an international tribunal. To these substantive objections was added the institutional fact of the Senate's two-thirds rule and the open hostility of Senator Jesse Helms, then chairman of the Foreign Relations Committee, who together with the Joint Chiefs of Staff pressed the American negotiators not to expose American soldiers and citizens to the Court's jurisdiction (Scheffer, 2008).

For Israel the binding constraint has been less a formal supermajority requirement than a broad cross-party consensus that the Court's jurisdiction threatens security policy and the settlement enterprise. The literature on Israel's position is thinner than that on the United States, and the point is offered with corresponding caution. In both cases the relevant Level II actors included executive-branch agencies, especially the military, so the

framework applies best when Level II is understood as the whole set of domestic actors able to block implementation.

The Schelling conjecture is also visible. American negotiators had every incentive to point out that a treaty lacking certain safeguards would not survive the Senate, and it is plausible to read the Article 16 deferral power and the complementarity provisions as concessions won in part by that argument (see Bosco, 2014; Schiff, 2008, on the negotiating history). But the narrow win-set purchased only partial accommodation. The final text still lay outside the range that Level II would accept, and the strategy that had extracted concessions thereby also ensured that the United States would remain outside the institution those concessions had shaped.

Contrast With the Wilson Case

The ICC cases differ from the Wilson case in instructive ways. Wilson wanted the agreement he had negotiated and failed to secure its ratification, so the defection was involuntary. In the ICC cases, ambivalence about the project was present from the start and the executive branch shared the domestic constraints rather than standing against them. The outcome was a deliberate non-accession, a form of ex ante Level II veto, and not a failed attempt to deliver a desired treaty. Strictly speaking, no commitment was broken, so neither voluntary nor involuntary defection in Putnam's sense occurred. The nearest analytical description is that the states bargained at Level I, recognized that no acceptable text could clear Level II, and withheld the commitment altogether.

Two further contrasts deserve mention. Wilson's win-set was contingent on a particular election, partisan configuration, and president, and it later enlarged enough to permit American membership in the United Nations. The American position on the ICC has persisted across administrations of both major parties, which points to structural rather than merely partisan sources of constraint. And the ICC illustrates conflictual linkage in a way the Wilson case does not. The existence of the Court itself generated domestic reactions, exemplified by the Service-Members' Protection Act, that further narrowed the win-set (Bosco, 2014; Ralph, 2007).

Broader Implications for World Politics

Why Powerful States Remain Outside Institutions

The two cases suggest a general proposition about why powerful states sometimes remain outside major international institutions. Powerful states have strong incentives to take part in negotiations, because they can shape institutional design, and they have the leverage to extract concessions. They also have particular reasons for resisting the constraints institutions impose, because they are more likely than others to be the subjects of those constraints, and they have outside options that make exclusion tolerable. When the final design falls short of what Level II will accept, the same capacity that enabled influence at Level I enables non-accession at Level II. Institutional designers thus face a dilemma: concessions to powerful states may secure participation at the cost of the institution's autonomy, while refusing them risks exclusion. This is consistent with Milner's (1997) argument that cooperation depends on the domestic distribution of preferences and on the institutions that aggregate them, and not on international power alone.

Multilateralism, Legitimacy, and Enforceability

The absence of major states has costs for multilateralism. Legitimacy suffers when an institution claims universal authority yet is not joined by those with the greatest capacity to act. Bosco (2014) shows how the practical reach of the ICC has been shaped by its dependence on the political calculations of powerful states, especially through the Security Council, and how that dependence has influenced perceptions of selectivity. Enforceability suffers as well. When powerful states accept legal constraints for others but not for themselves, the charge of double standards weakens the compliance pull of the rules.

Relevance to Other Domains

The same logic appears across policy domains. In trade, the design of fast-track or trade promotion authority, under which the American Congress commits in advance to a straight up-or-down vote on negotiated agreements, is an institutional device for enlarging the win-set by limiting amendments (Milner, 1997). In climate politics, the Kyoto Protocol was signed by the United States but never submitted to the Senate, which had signaled, by a 95-to-0 resolution in July 1997 (the Byrd-Hagel Resolution), that it would not accept an agreement that exempted developing countries from binding commitments. The architecture of the later Paris Agreement, built around nationally determined contributions and not binding quantitative targets, can be read in part as an adaptation to Level II constraints, trading depth of commitment for breadth of participation. The price of that flexibility has been demonstrated by the reversibility of American participation: a withdrawal announced in 2017 took effect in November 2020, the United States rejoined in February 2021, and a January 2025 executive order led to a second withdrawal that took effect on January 27, 2026.

In arms control, the Senate's rejection of the Comprehensive Test Ban Treaty by a vote of 51 to 48 in October 1999, the first defeat of a security-related treaty since Versailles, showed that even a treaty strongly supported by the executive can be defeated by the supermajority rule (Arms Control Association, 1999). The Iran nuclear deal of 2015 was concluded as a political commitment instead of a treaty, in part to avoid that obstacle, yet it remained vulnerable to domestic contestation, and Bjola and Manor (2018) analyze how the Obama White House used a dedicated Twitter channel to build domestic support for the agreement, a case they treat as domestic digital diplomacy. In human rights, the United States has ratified some core treaties only with substantial reservations, understandings, and declarations, and has not ratified others at all. These qualifications are classic strategies for enlarging a domestic win-set by diluting the commitment, with predictable consequences for the strength of the regime.

Polarization in an Interconnected World

A final implication concerns the growing challenge of polarized domestic politics in an increasingly interconnected world. Polarization shrinks win-sets directly, because broad coalitions become harder to assemble, and indirectly, because it makes international commitments reversible with each election. Counterparts, aware of this, discount the promises of leaders who may not survive the next electoral cycle, and the resulting credible-commitment problem lowers the value of agreements for everyone. Even in parliamentary systems normally thought to deliver reliable ratification a divided governing coalition can still produce Level II failure.

Interdependence compounds the difficulty. The issues that most require cooperation, from climate and public health to financial stability and technology governance, are also those that reach deepest into domestic life and thus mobilize the most domestic opposition. Digital media multiplies the number of actors at Level II and shortens the time in which leaders can manage them (Bjola & Manor, 2018). Contemporary conditions give leaders new tools to manipulate their domestic audiences and, at the same time, expose them to faster and less predictable mobilization against what they have agreed.

Two-Level Politics in Nigeria: Treaty-Making and the AfCFTA

Constitutional Dualism and Institutional Responsibilities

Nigeria illustrates the framework from the standpoint of a large developing state whose institutions build Level II directly into the treaty process. Section 12(1) of the 1999 Constitution provides that no treaty between the Federation and any other country has the force of law except to the extent that the National Assembly has enacted it into law. Section 12(2) permits the National Assembly to legislate on matters outside the Exclusive Legislative List in order to implement a treaty, and section 12(3) requires that such legislation be ratified by a majority of the Houses of Assembly of the states before it is enacted (Constitution of the Federal Republic of Nigeria, 1999, s. 12). The Treaties (Making Procedure, Etc.) Act prescribes the executive procedure for concluding treaties (Treaties (Making Procedure, Etc.) Act, 2004), but section 12(1) leaves domestic

enforceability to the legislature, and the Supreme Court has restated the rule that an international instrument must be incorporated by legislation before Nigerian courts will enforce it (Abacha v. Fawehinmi, 2000).

Responsibilities are divided among several institutions. The President negotiates and signs, and the Federal Executive Council approves signature and ratification. A presidential committee carried out the impact assessment, and a National Action Committee comprising ministries and agencies, the organized private sector, academics, and civil-society representatives was created to coordinate implementation (Central Bank of Nigeria, n.d.; Shehu, 2019). The National Assembly's role is the domesticating one: the Presidency stated that upon ratification Nigeria would incorporate the Agreement into existing laws or enact new ones, and that engagement with the Ninth National Assembly would begin shortly (Shehu, 2019). Because trade and commerce with other countries is largely a federal competence, the state Houses of Assembly are less likely to be pivotal under section 12(3) for the core of the Agreement, although matters outside the Exclusive List would engage them. The result is a distinctive variant of the problem Putnam described: an agreement may bind the country internationally while its provisions remain unenforceable at home until domestication occurs, so that the risk is not only refusal to ratify but an implementation gap.

Stakeholder Positions at Level II

Level II in this case was an organized-interest arena more than a legislative one. When the Federal Executive Council endorsed signature in March 2018, the Nigeria Labour Congress publicly urged the president not to sign, citing the lack of consultation (AFP, 2018). Manufacturers raised concerns about liberalization, and a report by the Manufacturers Association of Nigeria warned of effects on the automotive component of the National Industrial Revolution Plan (BusinessDay, 2019; The EastAfrican, 2018). Commentators also reported objections from airline operators concerned about open-skies commitments (Abati, 2018). Other constituencies took the opposite view. An open letter from organizations representing businesses, workers, and entrepreneurs later urged signature before the Niamey summit (Open letter to President Muhammadu Buhari, 2019), and the Lagos Chamber of Commerce and Industry and the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture welcomed Nigeria's accession (ThisDay, 2020). Even the manufacturers' position was not fixed: the Presidency reported that the central message of the association's own report was that Nigeria should sign with an informed mindset despite the challenges (The EastAfrican, 2018). The domestic win-set was therefore a contested and movable space shaped by sectoral winners and losers.

Managing the Win-Set: Assessment, Safeguards, and Sequencing

The executive's response combined delay, assessment, and the negotiation of safeguards. President Muhammadu Buhari withdrew from the African Union summit in Kigali at which the agreement was launched, and an official statement said that key stakeholders had not been consulted and had concerns about its provisions (AFP, 2018). On October 22, 2018, the president inaugurated a Presidential Committee on Impact and Readiness Assessment, chaired by Desmond Obadiah, which consulted stakeholders and submitted its report on June 27, 2019 (Shehu, 2019; TheCable, 2019). The Presidency reported that the president approved its recommendations: signature and ratification; negotiation of safeguards in the Agreement's annexures, including a longer period for liberalization, common exclusion and sensitive-product lists within the Economic Community of West African States, import quotas for sensitive products, and measures against smuggling and predatory trade practices; and domestic readiness interventions on productivity, infrastructure, trade facilitation, and support for small enterprises (Shehu, 2019).

These measures correspond closely to Putnam's category of strategies for enlarging a win-set. The safeguards and quotas are side-payments to those who stand to lose, and the readiness agenda links the external commitment to a domestic reform programme that gives other constituencies a reason to support it. Nigeria signed on July 7, 2019, at Niamey, more than a year after the Kigali launch (BusinessDay, 2019). The Federal Executive Council approved ratification in November 2020, and the instrument of ratification was deposited in December 2020 (Ladan, 2026; ThisDay, 2020).

Analysis

Applying the six questions, the Level I actors were the Nigerian delegation and the other African Union members that concluded the agreement. The Level II constituencies were labor, manufacturers, other business bodies, and the executive's own agencies. The approval mechanism before signature was executive and consultative and not legislative, with legislative action deferred to domestication. The win-set was shaped by expected distributional effects, by the executive's institutional autonomy, and above all by its strategy of consultation and safeguards. The outcome was delayed commitment followed by ratification, with no involuntary defection. The sequence, consultation first and signature after, is the reverse of Wilson's.

Three points qualify this reading. First, ratification in Putnam's broad sense was informal here: the constraint that mattered before signature was not a vote but the executive's judgment that sustained implementation required the acquiescence of organized interests. Second, delay carried costs as well as benefits. The president's absence from Kigali was reported as a blow to plans to launch the agreement (AFP, 2018), so the Schelling advantage of a credible domestic constraint was bought at some reputational cost. Third, the Level II task is not complete. Under section 12(1), the Agreement's provisions cannot be enforced in Nigerian courts until the National Assembly enacts them (Ladan, 2026), so the risk of an implementation gap persists until that step is taken and sustained by the constituencies that resisted in 2018. The status of domestication is thus a continuing indicator of how well Level II has been managed.

CONCLUSION

Two-level game theory remains an indispensable lens for understanding the limits of international cooperation. Its central insight, that international agreements are made on two boards at once and must satisfy both, explains why seemingly attractive agreements fail and why institutions take the shape they do. The Wilson case shows the theory's logic in its clearest form: a leader who succeeded at Level I, neglected the construction of a Level II majority, and watched an empty win-set convert a diplomatic achievement into involuntary defection. The ICC cases show a variant in which the domestic constraint was visible from the outset and led to deliberate non-accession, leaving the world's most powerful states outside an institution they had helped design. In both, domestic political constraints were not a background condition but the decisive variable, in line with the thesis advanced at the outset. The Nigerian experience with the AfCFTA shows that the same logic operates well beyond the great powers, and that a leader who manages Level II before committing may avoid the Wilsonian outcome.

Read together, the three cases suggest three regularities, offered as hypotheses and not as findings. First, the approval mechanism shapes the form that Level II failure takes: a legislative supermajority produces a visible vote and involuntary defection (Wilson), executive control of the decision to seek consent produces non-accession (the ICC), and a dualist system produces the risk of an implementation gap and not a refusal (Nigeria). Second, the timing of Level II management matters at least as much as its intensity: the Nigerian executive consulted before signing, whereas Wilson sought consent only after the settlement was complete. Third, in each case the size of the win-set was altered by negotiators' own choices, which confirms that Level II constraints are partly endogenous. These generalizations rest on three diverse cases and call for testing against larger samples.

The practical lesson is that leaders who neglect Level II constraints risk producing agreements that cannot be delivered. Effective diplomacy therefore requires more than skill at the negotiating table. It requires cultivating domestic coalitions, designing ratification strategies, and honestly assessing what constituents will accept. For scholars, the lesson is to keep both levels in view and to treat win-sets as objects of strategic choice rather than as fixed givens.

Finally, the theory exposes a continuing tension between domestic democracy and global governance. Leaders are accountable to their own citizens, whose consent gives agreements their domestic legitimacy, while many of the problems of the contemporary world can be addressed only through arrangements that cross borders. It

will remain a defining feature of world politics so long as the authority to make binding commitments rests with states whose leaders must answer at home for what they promise abroad.

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