

ISSUE BRIEF

Unlocking US-India Trade

Why a Bilateral Technology Agreement Works for India and the United States

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During a twelve-day trip to Asia, President Donald Trump had a high-profile meeting with Indian Prime Minister Narendra Modi on November 13, 2017. At the meeting, Modi reportedly told the president that India would “live up to the expectations” of the United States and the world and thanked the US president for speaking “highly” about India.¹ The meeting followed Secretary of State Rex Tillerson’s visit to India at which time Tillerson repeated an earlier reference to a new Indo-Pacific cooperation initiative with India plus Japan and Australia. Secretary Tillerson has made several grand geostrategic pronouncements that focus on defense and military matters. The comments, however, have lacked comprehensive economic or trade underpinnings.

On October 18, 2017, in an address titled “Defining Our Relationship with India for the Next Century” at the Center for Strategic and International Studies (CSIS), Secretary Tillerson mentioned the phrases “free trade” along with “rule of law,” which is notable in the context of the historic commitment to the liberal international economic order by the United States, India, Australia, and Japan. This raises the question whether President Trump can support a geostrategic arrangement that reduces

The South Asia Center works to overcome entrenched rivalries and foster collaboration in one of the world’s most volatile, dynamic, and strategically significant regions.

¹ “US, India cooperation can rise beyond bilateral ties: PM Modi to Trump,” Times of India, November 13, 2017, <https://timesofindia.indiatimes.com/india/us-india-cooperation-can-rise-beyond-bilateral-ties-pm-modi-to-trump/articleshow/61628409.cms>.

trade barriers while adhering to the administration's stated aim to decrease the US bilateral trade deficit with India and other nations. Trump, a free trade skeptic, along with his trade officials, particularly Wilbur Ross and US Trade Representative Robert Lighthizer, wish to renegotiate or repudiate existing trade agreements that the United States led in shaping over the past seventy years.²

India Plus Japan and Australia

The United States, India, Japan, and Australia find convergence over their shared values of democracy, pluralism, and the rule of law as well as a shared engagement to uphold the stability and security of their maritime commons. As such, the four countries are also in a prime position to foster enhanced trade ties. Japan and Australia signed a free trade pact in 2014, while the chemistry between the Indian and Japanese prime ministers Shinzo Abe and Narendra Modi has led to the creation of a "special global strategic partnership" that has seen enhanced relations in commerce and business.³

Both India and Australia, leading powers in the Indian Ocean, are working toward a Free Trade Agreement (FTA), made easier by the renewal of Australian uranium sales to India earlier last year.⁴

"...China would like to be (and could become) the alternative regional hegemon."

Given US ineffectiveness in reshaping trade agreements thus far in the Trump presidency, India should seize the moment to take the first step toward fleshing out the still skeletal framework of a quadrilateral initiative with Japanese and Australian support. The answer is a US-India bilateral framework for cooperation in technology trade, e-commerce, and cybersecurity. India should take the first step by proposing a special sectoral focus to accelerate and strengthen a bilateral US-India trade presence in the Indo-Pacific space. This would allow India to effectively serve its grander security and strategic objectives while the United States might regain its geostrategic leadership in the region vis-à-vis an emerging China. Since President Trump withdrew from the Obama administration's work negotiating a Trans-Pacific Partnership (TPP), the other eleven TPP nations are trying to salvage the agreement without the United States. Meanwhile China continues to advance its Regional Comprehensive Economic Partnership (RCEP) to position itself in the wake of an increasingly isolationist United States. Shifting focus from TPP to the Indo-Pacific may be a way to "make lemonade out of lemons," but the ingredients must be more than water, sugar, and lemons.

No TPP? Plan B

Just as is the case in nature, politics abhors a vacuum, and when President Trump pulled the United States out of the twelve-nation Trans-Pacific Partnership (TPP) immediately after taking office, every power in the Asia Pacific had to move on to Plan B. Japan, especially after Prime Minister Abe's snap reelection, is showing greater independence from its long-standing partner, the United States.⁵ More disturbing to the United States is that China would like to be (and could become) the alternative regional hegemon.

Therefore, Secretary Tillerson's Indo-Pacific vision needs sharpening. India can aid in the optimization of this objective by using bilateral and sectoral lenses to find where the two great nations can best cooperate and help secure a democratic future for the region and the world. What is needed, to quote from a statement

2 Rex Tillerson, "Defining Our Relationship WITH India for the next Century," Center for Strategic & International Studies, (CSIS), October 18, 2017, <https://www.csis.org/analysis/defining-our-relationship-india-next-century-address-us-secretary-state-rex-tillerson>. By consolidating its economic centrality through more open trade policies in an increasingly volatile Indo-Pacific region, India can better serve alongside the United States as the "Eastern and Western beacons of the United States respectively" in the words of US Secretary of State, Rex Tillerson. Secretary Tillerson went on to say that "India and the US must secure a free and open Indo Pacific- including the Indian Ocean, Western Pacific and nations that surround them- as it will be the most significant geopolitical space going forward being a focal point of the world's trade routes and energy space."

3 Japan is developing a truly "Special Global Partnership" with India and permitting 300,000 Indian youth to its shores for on-job training for over three years. A traditionally homogenous society that has been fiercely protective of its ethnic and cultural majority, this is a significant compromise of what has always been an element of Japan's existential identity.

4 "Australia quietly makes first uranium shipment to India three years after supply agreement," ABC News, July 18, 2017, <http://www.abc.net.au/news/2017-07-19/australia-quietly-makes-first-uranium-shipment-to-india/8722108>.

5 Mokoto Rich, "Japan Still Seeks U.S. Protection but Quietly Stakes Its Own Path," New York Times, August 18, 2017, <https://www.nytimes.com/2017/08/18/world/asia/japan-abe-trump-north-korea.html>.



Secretary Tillerson Meets With Indian Prime Minister Modi in New Delhi. *Photo Credit: State Department*

of the High Technology Cooperation Group,⁶ is a “stronger framework for cooperation to create the appropriate economic, legal, and structural environment necessary for successful high-technology trade, including the addressing of tariff and non-tariff barriers.”⁷

Why Technology?

Given the rapidly accelerating significance of information technology and e-commerce worldwide, particularly in the Indian and US markets, the interlinkages between the two nations in these spheres would facilitate a grander convergence that reinforces security capacity,

defense interoperability, and regional peace and stability. This proposal has geostrategic, economic, and political merit, both domestically and internationally. It advances trade in the face of the headwinds created by the president’s repudiation of multilateral and “plurilateral” trade agreements, on which his predecessors had labored successfully for seventy years to open trade, enhance global prosperity, and reinforce allied cooperation. A bilateral India-US trade in technology builds on recent steps taken by both nations to enhance bilateral security and strategic arrangements. Furthermore, such a deal has added political appeal for the current US administration that specifically seeks bilateral agreements.

Benefitting Other Sectors

A bilateral US-India information technology (IT) sector agreement would benefit many other sectors: defense, flow of people, banking, aerospace, science and technology, and infrastructure, among others. Reducing or eliminating tariffs and regulatory harmonization would benefit trade and the welfare of both nations.

6 Through the US-India High Technology Cooperation Group, the United States and India can act as the vanguards of the rules of IT and e-commerce. This will be a bilateral and sectoral approach and a novel framework to “create the appropriate economic, legal, and structural environment that is necessary for successful high-technology trade, including the addressing of tariff and non-tariff barriers,” US- India High Technology Cooperation Group. Embassy of India archives, The High Technology Cooperation Group (HTCG) fact sheet, https://www.indianembassy.org/archives_details.php?nid=1060.

7 Ibid.



President Trump's Trip to Germany and the G20 Summit. *Photo Credit:* State Department

The total value of US-India bilateral trade increased from \$37 billion in 2005 to \$115 billion in 2017,⁸ and the right relationship and agreement could expand bilateral trade to even higher levels. E-commerce in India also has enormous growth capacity, especially in the fast-moving consumer goods (FMCG) space, which can potentially reach \$6 billion by 2020 from less than \$1 billion in 2017. Realistically, India's infrastructure is more than ripe for improvement and US commercial cooperation. These new sectors will demonstrate the ability of India to incorporate world-class technology into the fabric of society.

Constraints

In putting forward a sectoral approach like this, it is crucial to take a realistic view of the limitations of

India's infrastructure. In 2013, the Indian Department of Electronics and IT outlined a cybersecurity policy to defend and respond against cybersecurity attacks.⁹ However, progress in implementation as well as in the streamlining and syncing of government departments in India (and the creation of relevant government departments, as is the case in the United States) has been slow. Cooperation in this space would benefit both countries by creating an improved framework for e-commerce transactions.

8 Asia Matters for America, "Goods and Services Exports to India 2015," East West Center, last accessed January 16, 2018, <http://www.asiamattersforamerica.org/india/data/trade/importexport>.

9 Sanjiv Tomar, "National Cyber Security Policy 2013: An Assessment," IDSA Comment, Institute for Defense Studies and Analysis, August 26, 2013, https://idsa.in/idsacomments/NationalCyberSecurityPolicy2013_stomar_260813.

Why India Should Risk Taking the First Step

Why should India risk taking the first step toward a bilateral framework when every other nation wants to avoid negotiating one-on-one with the nation with the world's largest commercial and defense market for goods and services? No country wants to be in a weak bargaining position given the United States' market leverage. That is why President Trump is so critical of existing multilateral and plurilateral agreements; he believes the United States could improve its bargaining leverage in one-on-one deals.

An agreement focused on the technical sector where India continues to build on its impressive accomplishments minimizes the risks in a bilateral accord and opens the door for the geostrategic cooperation that India seeks. Given the centrality and significance of IT and e-commerce to both India and the United States, the links between the two nations in these spheres would greatly facilitate a grander coalescence, which would have ramifications not only in trade but for security capacity, defense interoperability, and regional peace and stability. Greater engagement between the United States and India in trade is also consistent with the US goal of "support(ing) India's emergence as a leading power."¹⁰

Looking Beyond the Subcontinent

The government of India has been moving from an historical focus on the subcontinent and reliance on import substitution to a broader Asia-Pacific region and market reform as India's strategic outlook moves from one constrained by its traditional nonalignment to embracing a bigger role in grand geopolitics. India in 1991 initiated its "Look East" policy, which sought to cultivate comprehensive economic, strategic, and cultural ties with the nations of the Association of Southeast Asian Nations (ASEAN).¹¹

While in Washington DC on October 25,¹² Singapore Prime Minister Lee Hsien Loong stated, "What exactly

will the Indian government do, where is their priority focus, to what extent are they able to reorient themselves from the subcontinent externally towards the region and open up and use trade as an instrument of policy, just like the Chinese do, just as the Americans have done in a strategic way, and therefore play their full role in the region." He went on to say, "We are hoping that with Mr. Modi, and with the "Look East" policy now morphing toward an "Act East" policy, that it would mean a greater integration of India into the region."¹³

As a signatory to the World Trade Organization's (WTO) Information Technology Agreement (ITA), India is committed to the elimination of import duties on a specified list of information technology goods. India is the second largest participant—not part of the ITA II agreement—by import of ITA goods and the fourth largest exporter.¹⁴ India has opposed the ITA II pact since 2015, when the majority of members agreed to expand the products covered under the agreement, because the broadened ITA would not benefit its non-robust manufacturing sector. Additionally, "India had joined ITA-I but that had a devastating impact on the domestic electronics hardware sector," according to Abhijit Das, head of the Centre for WTO Studies at the Indian Institute of Foreign Trade. Also, the agreement would have been counterintuitive to the Modi administration's "Make in India" initiative, as it would have made the imports of goods cheaper than indigenously manufacturing them in India. Formulating a bilateral US-India IT/e-commerce agreement beyond the ITA II with a focus on information technologies in which these two leading powers excel yields multiple positive ramifications for many sectors.¹⁵

Lifting tariffs and reducing harmonizing standards will provide improvements in trade and welfare. The total value of bilateral trade increased from \$37 billion to \$115 billion between 2005 and 2017, and the potential is far greater with a bilateral technology agreement in place.

10 Rex Tillerson, Defining Our Relationship WITH India for the next Century," Center for Strategic & International Studies, (CSIS), October 18, 2017

11 Press Trust of India, "India should give bigger priority to ASEAN: Former diplomat," Economic Times, March 9, 2017, <https://economictimes.indiatimes.com/news/politics-and-nation/india-should-give-bigger-priority-to-ASEAN-former-diplomat/articleshow/57553824.cms>.

12 Lee Hsien Loong, Remarks, "A Conversation with Prime Minister Lee Hsien Loong," Council on Foreign Relations, October 25, 2017.

13 Ibid.

14 United States Census, "Trade in Goods with India," 2017, <https://www.census.gov/foreign-trade/balance/c5330.html>.

15 Research estimates that exports from the United States to India would expand by 90 percent, while exports from India to the United States will expand by 20 percent in the event of a 100 percent AVE tariff cut for goods and a 50 percent tariff cut for services. It is important for US companies to utilize the best technologies that suit their needs with Indian partners, especially in equipment for telecommunications networks given scope for convergence.

Since the TPP's provisions impacting service providers no longer apply to the United States, "the US will need to assure American service providers that they have a legal basis for offering their services in other countries or regions. These services include technology-related support such as cloud computing and professional services such as consulting and advertising."¹⁶

There are many roadblocks in enhanced cooperation, particularly India's protection and enforcement of intellectual property (IP) legislature, weak infrastructure, slow pace in modernizing the business environment, lack of transparency and restrictions on direct investment in the banking sector.¹⁷ A comprehensive bilateral agreement is an opportunity to address barriers to cooperation, especially in the Indian banking sector.

A bilateral framework could also be a forum to resolve issues of intellectual property rights that hinder greater trade between the two countries. India is currently on a US watch list for "failing to protect US companies' intellectual property rights, through lax rules against trade secret theft or poor patent protection."¹⁸

A bilateral agreement would also be an effective way to handle the special circumstances of skilled IT professionals immigrating—or wishing to immigrate—who are on temporary work visas in the United States. Approximately 70 percent of H1B visas (visas that allow US companies to hire foreign professionals in specialty occupations) are awarded to Indians, the majority of whom work in the IT sector. This situation is changing, as the Trump administration's policies on H1B visas and immigration in general is causing consternation in many quarters including higher education.¹⁹ IT companies are

already changing their staffing and finding alternate locations for their overseas activities. Many Indian IT professionals on H1B visas are seeking work in other countries.

The outlook for the Indian IT industry in 2017-2018 saw a 7-8 percent growth in exports, which are likely to be worth \$124-125 billion, yielding around \$26-\$26.5 billion in revenues. The United States is still likely to remain the top destination market for Indian software exports as well as software business by foreign affiliates of local companies. The top industries are businesses that process outsourcing services, auditing and tax consulting, customer interaction services, and embedded solutions and other engineering services.²⁰ Greater bilateral regulatory oversight mechanisms need to be carefully shaped to allow US multinationals as well as small- and medium-sized enterprises to operate in the Indian and US e-commerce sector.

E-commerce is a major opportunity to include in a bilateral sectoral framework. The reaches of this emerging technology in India are enormous. "Online retail in India is estimated to grow over 1,200% to \$200 billion by 2026, up from \$15 billion in 2016, according to a recent report by financial services firm Morgan Stanley." So far, only 14.4 percent of Indian internet users shop online, compared to 64 percent of all Internet users in China, which demonstrates enormous potential for growth in this sector. Thus, India has become a prime market for US firms such as Amazon. Additionally, because most Indians do not use credit cards for transactions, there is room for enormous growth in credit card usage in India. The delivery of Indian packages to rural areas is difficult given the subpar physical infrastructure; therefore, physical and digital infrastructure connectivity is one area where the United States and India can collaborate to allow for the successful management of e-commerce in India.

Given the enormous significance of greater digital connectivity to India's domestic growth, regional and international stature and to the facilitation of a greater quality of life for its citizens, India is endeavoring to improve its digital connectivity. "The digitalization of many logistics services and regulatory border controls increases

16 Stuart Brotman, "The road ahead for technology-related trade agreement terms" Brookings Institution TechTank Blog, February 2, 2017, <https://www.brookings.edu/blog/techtank/2017/02/02/the-road-ahead-for-technology-related-trade-agreement-terms/>.

17 Indivjal Dhasmana, "US Slams India's restrictive policies in foreign investment, trade," Business Standard, 2017, http://www.business-standard.com/article/economy-policy/us-slams-india-s-restrictive-policies-in-foreign-investment-trade-117040300492_1.html.

18 United States Trade Representative, 2017 Special 301 Report on Intellectual Property Rights, Priority Watch List, 41, last accessed January 19, 2017, <https://ustr.gov/sites/default/files/301/2017%20Special%20301%20Report%20FINAL.PDF>.

19 "Indian techies, IT firms fret as Trump orders US visa review," Reuters, April 21, 2017, <https://in.reuters.com/article/trump-india-visa-immigration/indian-techies-it-firms-fret-as-trump-orders-u-s-visa-review-idINKBN17NIVE>. 1) The US draws in 100,000 Indian students annually; 2) The number of student visa applications for certain courses in Canada had spiked over 250 percent since Trump's election win in November; Infosys, India's No. 2 informa-

tion technology (IT) services company, is applying for just under 1,000 H-1B visas this year, which one of the sources said was down from 6,500 applications in 2016 and some 9,000 in 2015.

20 "Indian IT sector lobby group sees export growth at 7-8 percent for 2017-18," Reuters, June 22, 2017.

the efficiency and the ease of doing trade. Data flows facilitate information sharing among the various actors and bodies participating in the trade logistics chain, thereby reducing the coordination costs associated with moving goods from production to consumption.”²¹ The state-backed development of India’s digital infrastructure, implemented in an optimally decentralized fashion, provides a solid backbone for a bilateral partnership, just as it provides more avenues for cooperation with ASEAN.

Geostrategic and Trade Diplomacy

America’s allies Japan and Australia are ready to move forward with the apt multilateral agreements. Japan and Australia have worked closely with the United States during the past seventy years multilaterally and regionally to advance trade policies consistent with the geostrategic positions and democratic principles that these nations uphold. Now is the time to include India, which for reasons that Prime Minister Modi has famously referred to as “hesitations of history,”²² has lagged. This should be tapped through quadrilateral official and private sectors working in tandem. More focus must be placed on regulatory standards, compliance, policies, and standard setting pertaining to emerging technologies, most prominently in the IT sector.

Cybersecurity

Today, the intersection of cybersecurity together with rapid consumer technology, and the extension of global supply chains for goods and services have all sounded a wakeup call and created a new role to play in trade diplomacy. Given our common commitment to democracy and given the geostrategic challenges from China, it would be prudent for the United States to answer an Indian call to enter into a bilateral agreement on IT, e-commerce, and cyber security.

Why a Bilateral Agreement Might Work: A Compositional Shift in Business Support for US Trade

President Trump won the White House with the slogan “Buy American: Hire American.” He remains committed to his base of voters, who he believes blame their unmet economic and social expectations to a significant extent on foreign competition. Over the past seven plus decades, since the 1950s, most US leaders have supported a slow but steady opening of American markets to foreign competition in goods and services.

“Trade still has a major part to play as an instrument of geostrategic policy and The United States still has a large but shrinking role.”

US leaders have most often relied on geostrategic arguments—the notion that open trade has supported our vital alliances—to convince the American public that an economic opening driven by competition from imports and formalized through regional, multilateral, and plurilateral agreements was in US interests. There has always been domestic opposition to this openness, but the implosion of the Soviet Union (USSR) and its Council for Mutual Economic Assistance (Comecon) along with the rise of China likely

play the biggest roles in public erosion of support for trade and globalization.

While the success of US alliance policy and its economic components led to the demise of the Soviet Union, China has risen economically, militarily, and diplomatically, in a sense replacing the USSR as the principal concern of the American public. Trade still has a major part to play as an instrument of geostrategic policy and The United States still has a large but shrinking role.

21 Organization for Economic Co-operation and Development and WTO, “Digital Connectivity and Trade Logistics - Getting Goods Shipped, across the Border and Delivered,” Chapter 3, July 11, 2017 https://www.wto.org/english/res_e/booksp_e/aid4trade17_chap3_e.pdf.

22 Narendra Modi, Address to a joint session of U.S. Congress, June 8, 2016.

2016 Election

The domestic political forces that, until recently, supported a liberal American trade policy have clearly changed. The older industries of the unionized manufacturing sector that had long harbored powerful protectionist forces finally found a candidate who wholeheartedly supports its agenda. Other sectors of the economy such as agriculture and services are also in political flux. The agricultural sector, for example, has become much more focused on free trade and exports than in the past. Energy producers never played a role in trade agreements and related trade debates, but that is changing too with the North American Free Trade Association renegotiation. Now US fossil fuel production and exports are surging. Likewise, the technology sector that hardly existed several decades ago has figured out the advantage of going around slow multilateral arrangements such as the General Agreement on Trade and Tariffs and WTO negotiating rounds and adopted a sectoral Information Technology Agreement. The defense industries have not played a dominant role except

when their products spilled over into the commercial field as in the case of Boeing aircraft. Traditionally, energy corporations have also not played a major role at the WTO in the liberalization of world trade.

Today the intersection of cybersecurity with rapid consumer technology and the extension of global supply chains for goods and services has sounded a wakeup call and heralded a new role for the defense and energy industries plus the technology sector to be more active in trade commensurate with their clout. Given the United States' and India's common commitment to democracy, the United States should answer "yes" to a bilateral agreement on IT, e-commerce, and cyber security.

The Honorable Paula Stern is the chairwoman of the Stern Group and former chairwoman of the US International Trade Commission. Dr. Stern gave the keynote address at the 2017 conference in Bangalore hosted by the U.S. Consulate General Chennai.

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