

US-INDIA PARTNERS FOR CHANGE

US-India Trade Relations: To the Next Level

Issue Brief

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ISSUE BRIEF

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The project

The Centre for Public Policy Research (CPPR) is conducting a 10-month long project on 'US – India Relations: Change, Continuity and Transformation'. This Project is supported by the US Consulate General Chennai, Public Affairs Section. The Project aims at studying the US-India partnership across the following focus areas – titled US and India: Partners in Global Climate Action, Indo-Pacific Strategy: Reimagining the Maritime Outlook, US-India Trade Relations: To the Next Level and Transformational Technologies and US-India Science and Technology Cooperation. The Project aims to prepare a platform for conducting informed discussions and sharing concrete and actionable policy recommendations for private and government functionaries from India and the US on the focus areas.

As part of the Project, CPPR will conduct four webinars on the selected topics with the participation of subject matter experts from the two countries. The first webinar of the series, on US and India as Partners in Climate Action: A Clean Energy Agenda, was held on June 17, 2021. The speakers at the webinar were Dr. Jessica Seddon and Prof. Damodaran. The second webinar, on an Indo-Pacific Strategy: Reimagining the Maritime Outlook, was held on August 26, 2021. The speakers at the webinar were Dr. Rajeswari Pillai Rajagopalan and Mr. Gregory Poling. The third webinar, on US-India Trade relations: To the next level, was held on November 10, 2021. The speakers at the webinar were Dr. Rupa Chanda and Mr. Mark Linscott.

Dr. Rupa Chanda is the Director of Trade, Investment and Innovation at UNESCAP, Bangkok. She is on leave from the Indian Institute of Management, Bangalore where she has been a Professor of Economics for over 25 years. She has worked as an Economist at the IMF and also briefly served as Head, UNESCAP Subregional Office for South and South-West Asia in New Delhi. Her research interests include the WTO, trade in services, regional integration and migration. She is a member of several expert committees like the WHO's Review Committee on the functioning of the International Health Regulations (2015-16) and the WHO's Expert Advisory Group, International Recruitment of Health Personnel (2019-20).

Mark Linscott is a non-resident senior fellow with the Atlantic Council's South Asia Center and a Senior Advisor with The Asia Group, where he works closely with the clients on trade and investment priorities across South Asia. He was the assistant US trade representative (USTR) for South and Central Asian Affairs and was responsible for development of trade policy with the countries comprising South and Central Asia, including Bangladesh, Bhutan, India, Nepal, Pakistan and Sri Lanka. He also participated in the bilateral Trade Policy Forum with India and in Trade and Investment Framework Agreements (TIFAs) with Central Asia, Bangladesh, Maldives, Nepal, Pakistan, and Sri Lanka. He served as the assistant US trade representative for the WTO, represented the US at the G20, OECD and at the US Mission to the WTO in Geneva. He was the lead negotiator for the Uruguay Round Government Procurement Agreement at the Office of

WTO and Multilateral Affairs in USTR Washington, and was responsible for preparations for the entry-into-force of the WTO.

The discussion was moderated by Purvaja Modak, Research Fellow, International Relations – Geoeconomics at CPPR. Her research focuses on issues of global economic governance, international trade and finance, economic diplomacy and multilateral financial institutions. Prior to joining CPPR, she was a Researcher for Geoeconomic Studies and the Manager of the Research Office at Gateway House: Indian Council on Global Relations, a Mumbai based foreign policy think tank. She was a fellow at the 2nd G20 Global Leadership Programme 2019, hosted by the Korea Development Institute (KDI) and the Korean Ministry of Strategy and Finance.

The discussions at the webinar were synthesised into this issue brief by Purvaja Modak, with assistance from Srushti Jayawant and Shaurya Vardhan, International Relations Interns at CPPR.

The opinions expressed in this issue brief are those of the speakers at the webinar held on November 10, 2021 and the author. They do not reflect the views of the US Consulate General Chennai.

US-India Trade Relations: To the next level

The US and India have shared values and interests in promoting global security, stability and economic prosperity through trade investment and connectivity.

The cornerstone of US-India partnership remains their trade and commercial linkages. A shared bilateral goal has been the need to realise trade aspirations of USD 500 billion. In 2019, the US goods and service trade in India totaled an estimated of USD 146.1 billion dollars whereas exports were USD 58.6 billion and imports were USD 87.4 billion.

Both countries have multiple tracks of engagement through dialogues, forums and working groups, thus enabling frank discussions on the issues at hand. However, there is a lot of potential in the trade relationship between the two countries that hasn't been realized.

US-India trade constitutes only 2% of the total US trade. That means that India is not a very significant trading partner for the US in terms of numbers. The US was once India's largest export destination accounting for nearly 17% of India's total exports in 2019 and the third largest source of goods imports. However, in contrast, India was the 10th largest source of imports to the US, its 9th largest trading partner and 13th largest export market accounting for a very small percentage of US exports. So, while the US may be important for India, both for sourcing imports and for the exports market, the same is not true of India for the US. India is an important strategic partner for the US and a growing partner in trade and investments.

Historically, there has been a shift in India's trade basket from trade being dominated by goods to trade dominated by services. The share of services in India's total trade has grown from 25% in 2000 to 40% in the recent years, simply because of the dominant IT sector in India. India was the 7th largest services trading partner to the US in 2018 accounting for 4% of US' service trade. This number is still half of the share of US services trade with countries like the UK or Canada.

India certainly has a positive trade balance vis-à-vis the US in goods and services together. This is a reflection of India's failure to provide adequate market access for US goods. India has also been relatively restrictive in the case of services.

There are areas in which bilateral trade relations are strong between the two countries. US energy exports in recent years, strong people to people ties have strengthened the Indian diaspora in the US, higher education and student enrollment in 2020 contributed to over USD 8 billion to the US economy, the total number of Indian students in the US has doubled over the past few years. India gets the highest number of skill category visas like H1B and L1 visas from the US. This shows the importance of skilled mobility.

Recent relaxations on FDI restrictions and sourcing rules in areas such as single brand retailing have opened up prospects for companies like Apple Inc. to come to India. Yet, this is still very few in comparison with other countries like Brazil.

The US has raised concerns about the nature of regulatory transparency and predictability in India. Sensitive issues have been raised on non-tariff barriers, sanitary and phytosanitary measures, technical barriers to trade, differences over agriculture support programs, price controls on medical devices, curbs on import of dairy products in India, ad hoc tariff hikes over trade preferences in India; visas, e-commerce, data sensitivity, cybersecurity, restrictions on access of defence technology etc.

A lack of structured bilateral trade agreements or consultative forums between India and the US hinders progress in resolving some of the above issues and makes it even more difficult to realise its potential. The US-India trade relations do hold a lot of promise and trends suggest opportunities in sectors like defence, aerospace, energy, transport, e-commerce, digital economy, robotics, AI, electrical vehicles etc., along with some traditional ones like infrastructure, textiles, machinery and even gems. There is also scope in services and leveraging people to people engagements and cooperation in healthcare and science and technology and research.

The US-India bilateral trade relationship is underperforming and has underperformed for many years. There are compelling arguments to foster a greater and more resilient trade relationship between the two countries.

1. The size of the US economy (#1 economy in the world by GDP) and of India (#6) - While the US is already a superpower, India will soon become the third largest economy in the world. The moment is certainly opportune for the two sides to discuss and resolve trade issues and increase their bilateral trade and investment.
2. There is a strong strategic relationship between the two countries, owing to the 2+2 dialogues, shared interest in building up the Indo Pacific alliance, increased activity and attention to the Quadrilateral Security Partnership along with Japan and Australia.

There is a history of low ambition in the bilateral engagement on trade between the two countries. The Trade Policy Forum has been the central venue for dealing with difficult bilateral trade issues since 2004 but it always had limited agenda and has had limited accomplishments. There is also a history of disputes on the multilateral front with the two countries not seeing eye to eye at the WTO on a range of issues affecting the international trade system. There were differences between India and the US at the WTO Ministerial Conferences as well.

The Biden administration's trade policy with India

The Biden administration's trade policy with India looks similar to the Trump administration's trade policy. It is an 'America first' policy and there is a comfort with protectionist policies. This, accelerated by the Covid-19 crisis, trade tensions with China, etc., brings an emphasis on the

security of supply chains. Like the Trump administration, there is a preoccupation with labour issues so there is a worker centric trade policy with a focus on blue collar jobs. What is unique in the Biden administration is a very explicit policy against new free trade agreements for the moment. The focus is on domestic recovery and a response to the pandemic.

The Biden administration is also very Europe focused at the moment. The accomplishments on trade so far, have been with its European allies.

The most likely outcomes in the coming months could be related to agriculture, intellectual property rights and discussion will focus on digital trade, data localisation, etc.

Bigger vision for India and the US would entail:

1. Focusing on bilateral trade relationship in the short term
2. Devoting the necessary resources to facilitate progress on contentious issues at the bilateral level
3. Having a joint vision for a more comprehensive relationship in the future that could culminate into an FTA. Currently, the Biden administration is not interested in an FTA. It can focus on smaller agreements. Ironically both countries are committed to a free and open Indo-Pacific region without being a part of the regional agreements in the region like CP-TPP and RCEP. Thus, the two need to first work bilaterally to build the relationship on trade.

Irritants that have hampered the realization of the shared goals on trade

There are many strengths and interests in developing the services sector. There is a growth in IT enabled services, computer and information technology services. There are opportunities and complementarities in professional services. The FDI relationship is booming in a range of services like energy services, distribution services, transport, etc.

However, there are some key issues that need resolution if the ties in the services sector are to grow:

1. Mode 4: The movement of natural persons and related issues like H1B visas, social security taxes, etc.
2. Digital services and issues related to data protection, data localisation, cyber security, interoperability standards, etc.
3. Sensitivities around transparency, predictability and changes in FDI policies especially in certain sectors in India.

It will be difficult to resolve the deadlocks between India and the US on digital issues since the two countries have contradicting views on data protection, localisation and e-commerce. India does not sit on the global high table to negotiate issues on data and is not a part of existing plurilateral agreements on these issues. It has not joined multilateral discussions at the WTO either. Unless India doesn't participate in these discussions at multilateral and plurilateral levels, it will not be possible to advance discussions at the bilateral level.

The US feels that India has isolated itself by not contributing to the discussions and the reticence on the part of Indian negotiators seems shortsighted.

The discussion on H1B visas between India and the US started during the Obama administration, continued through the Trump administration and has carried forward to the Biden administration. This issue is a major bone of contention between the two countries. India raised this issue at the multilateral level, challenging the US' national regulations on immigrations in a multilateral level. Such visa restrictions also impede the realization of social security and totalisation related agreements between the two countries. India has been able to sign such agreements with other countries like Japan and Germany to facilitate mobility of skilled workers but it has not been able to achieve that with the US. The issue there is that there is no comparable social security contribution scheme in India.

The two countries must look for a possible rollback on the decisions that the Trump administration took on H1B visas. In the US, there is a long-standing resolution on totalisation. A similar resolution is required in India too.

Feasibility of an US India Free Trade Agreement (FTA)

The US and India are not negotiating an FTA. Instead, a discrete series of outcomes are being negotiated since 2016. Discussions are focused on goods trade such as pricing for medical devices, market access for dairy products; the Generalized Scheme of Preferences (GSP) and do not involve services related issues. There were negotiations on specific issues related to agriculture, ICT tariffs, etc. as well. The negotiations could have materialized in a deal but the Trump administration failed to seize the opportunity and conclude it. Some aspects of those negotiations will be introduced and discussed at the Trade Policy Forum that the US and India have resumed. Progress on such discussions can create circumstances in which negotiating an FTA will be possible in the future.

India and the US China trade tensions

The predictions made after the US-China trade war started as well as indications after the Covid-19 pandemic highlighted the need to diversify global supply chains, de-risk them and build more resilience. India was touted to be one of the countries that could benefit from the tensions. Some trade diversion to India was anticipated due to the higher tariffs that Chinese products would face in the US market along with some relocation of production, away from China. A Deutsche Bank study estimated that India would be among the top three-four countries that would benefit from the trade diversification.

But that did not happen. A large part of the US companies or third world country companies did not relocate away from China due to the scale and capacity that China promised which other countries could not. Whatever diversification took place went to countries like Vietnam and Malaysia.

Unfortunately, India does not have the capacity to capitalise on opportunities like this due to existent problems and challenges, particularly in the manufacturing sector. India is a huge and unique market for American companies. Sound and transparent policies must be introduced that will create better incentives for these companies to invest in the Indian market. India is also not very well linked with regional value chains in Asia. India is not a part of major global value chains (GVCs) and is not a part of any major mega regional groupings or agreements. India's own unilateral trade policies are against the idea of benefiting from such trade frictions. Access to low-cost imports, easy land acquisition policies, labor efficiency and resolution of issues

related to logistics, transport, port connectivity need to be implemented to entice companies to invest in India. India must review its own policies, bring changes and be more competitive if it wants to take advantage of the China plus One strategy. However, India is not yet prepared to do so.

On India's Trade Facilitation in Services Agreement (TFS) at the WTO

It is a common observation that for decades India has been silently accepting the global rules and regulations, set by developed countries instead of joining the negotiating table and leading negotiations with arguments that will be in her favor. To champion initiatives that matter to her at WTO discussions, India had tabled the trade facilitation agreement in services at the WTO in 2016. The objective of the proposed agreement was to eliminate the 'at the border' or 'behind the border' barriers that restrict the services trade. The TFS was introduced by India at the WTO to give momentum to the services negotiations which were practically dead around that time. The motivation for such an agreement came from the successful negotiation of the TFS in goods which India was in fact opposed to for various reasons.

There were various concerns related to the issues proposed in the agreement. Countries at the WTO were of the opinion that they will not push to liberalise their services sectors any further or make new commitments but will try to make their existing commitments more meaningful by working on regulations that apply to services trade across all modes of supply. There was a conscious effort at the WTO to avoid making the proposal Mode 4 specific because India was known as the strong proponent of Mode 4. Mode 4 of supply of services refers to commitments on the movement of natural persons across borders to supply the service. This brings up issues like H1B visas amongst others.

In fact, there were common concerns displayed by developed and developing countries. Developed countries like the US, Australia, EU, Canada, were skeptical about the proposal and felt that the proposed provisions were not ready to be discussed at the multilateral stage as yet. They felt that the proposal was covering new areas that were not discussed in the past and were irrelevant to the current discussion on trade facilitation in services. Developing countries felt that all services related discussions were to be discussed under the auspices of the WTO's Working Party on Domestic Regulation (WPDR).

Also, the proposal covers issues on Mode 1 and Mode 3 of the supply of services and this broadens the discussion to more complicated and unresolved issues like investment facilitation in services, cross border e-commerce, etc. India in this proposal, is pushing for discussions and further liberalization on such issues, while it refuses to discuss these issues in plurilateral trade agreements.

Another issue with the proposal was that it took away from core issues that are the mandate of the WTO, like public stock holdings in agriculture etc., that have been in deadlock since the Doha round and need resolution first. Some countries felt that it would be essential to focus the WTO's and each country's administrative capacity to prioritise the resolution of long-standing issues first before expanding the negotiations mandate. They felt that India should have thought through the feasibility of this proposal before tabling it at the WTO. They concluded unanimously that India must work with the US to make this proposal more inclusive and attractive for a broader group of countries and thus effective at plurilateral levels.

These are some areas in which the US and India can collaborate in the Indo-Pacific region in their attempt to reimagine the maritime outlook and build stronger partnerships for a better future.

Interlinkages between trade and climate – an expansive US India trade partnership

Discussions at COP26 have led to the understanding that trade negotiations can be used to carry out initiatives that are environmentally sound and that reflect sustainability and social interest. Given global warming and climate change, it is even more urgent now for India and the US to work together on climate related issues. Both countries need to arrive at a compromise on the interlinkages between climate and trade. It must begin with a basic commitment to work together on issues like carbon border adjustment mechanisms. There are discussions in the US Congress on these issues and the two sides need to start discussing how border adjustments can take place.

There is a lot of potential to explore in climate smart trade in environmental goods and technologies. India and the US must prioritise trade in renewable forms of energy, given the current focus on energy exports from the US to India. This could also improve the trade balance trade between the two countries.

Sustainable business practices and models for the private sector must be considered by the two countries. Sharing information and experiences related to sustainable business practices and models is essential because when value chains are integrated, some of these standards and practices percolate down to the suppliers at the grass route. Such partnership models can address sustainability concerns as well.

Immediate policy interventions that the Indian government can implement to create a more favorable investment climate for American businesses to thrive in India

To create a more favorable investment climate for American businesses to thrive in India, the Indian government must:

1. Make stable and continuous policies related to taxation. A lack of clarity on existing policies affects not just foreign investors but domestic investors as well.
2. Focus on policies that deal with large scale manufacturing and on land acquisition and compensation related issues that arise out of it. Such policy proposals are very difficult to pass through Parliament and must be given adequate thought.
3. Understand the need for regulatory transparency. Currently, it is difficult for foreign companies as well as Indian companies to understand and navigate Indian business and regulatory policies, keeping them away from dealing in the Indian market.
4. Consider an immediate lowering of tariffs that will allow access to some raw materials that can promote manufacturing in India.

Recommendations for a US India trade agenda for the Biden administration and the Modi government


The Biden administration and the Modi government must:

1. Address the immediate concerns, the low hanging fruits and the immediate irritants that hamper the US India relationship. This will build confidence and encourage the two sides to focus on larger issues going forward.

2. Create institutional mechanisms and structures for continuous dialogue to address the more complicated and evolving issues like digital trade and e-commerce that need regular discussions and deliberations. India could create a dedicated cadre of trade professionals with a long and stable tenure. The US Trade Representative's Office (USTR) was created in 1962 for this very purpose. So, India can build resources to give dedicated attention to trade issues.
3. Look at emerging sectors and opportunities in the long term and at synergies across sectors rather than each as an individual sector or an issue.
4. Prioritise on issues like data localisation, digital trade and e-commerce, issues of market access and improve the regulatory environment to give a boost to crucial sectors like pharmaceuticals and others where IPR related issues exist.
5. Reconsider the 'Generalised Scheme of Preferences' (GSP) issue. Due to the GSP barrier, trade between the US and India is taking place through other less developed countries. While this gives the two countries a tariff advantage, it adds significantly to logistic and transaction costs. Instead of a direct transaction, the GSP could be beneficial for both countries.

USTR Ambassador Katherine Tai's recent visit to India

The importance of the US India trade relationship and the shared goal of reaching USD 500 billion in trade aspirations was reiterated by the current US trade representative Ambassador Katherine Tai when she visited New Delhi in November 2021 and met with the Indian Commerce Minister, Piyush Goyal. The two sides resumed the Trade Policy Forum after a gap of 4 years. Resuming this dialogue, that touched upon the issues we discussed in this issue brief, is an indication of the joint commitment the two countries have to resolve the irritants, find areas of collaboration and take their bilateral trade relationship to the next level.



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